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COMMITTEE ON EDUCATION

March 14, 2005

LB 556, 138, 303, 460, 449, 624

The Committee on Education met at 1:30 p.m. on Monday, March 14, 2005, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 556, LB 138, LB 303, LB 460, LB 449, and LB 624. Senators present: Ron Raikes, Chairperson; Dennis Byars, Vice Chairperson; Gwen Howard; Gail Kopplin; Vickie McDonald; Ed Schrock; and Elaine Stuhr. Senators absent: Patrick Bourne.

SENATOR RAIKES: (Recorder malfunction) ...this hearing of the Education Committee of the Nebraska Legislature. This would be our penultimate hearing for this session. You're all very welcome. Today we're going to hear five bills presented in the order posted on the outside of the hearing room doors. I'm going to ask in a moment how many are going to testify on each bill so that we can get a feel for our allocation of time. In that connection, I'll mention that we do use a light system. And the way it works is when you come up to testify please give us your name, spell the last name if you would, and fill out one of the forms, either grab one off the table here or one out of the back corners of the room and put it in the box. This is all for the benefit of our transcriber because the hearings are transcribed. I'll...we'll come to a decision here shortly on the amount of time for each testifier, but it looks as though it may be less for testifiers rather than more, but we'll see in a moment. What I need to do next is to introduce our committee members. To my far right, Senator Bourne from Omaha normally is here, but I don't think he's going to be here today. The first present member, I'll put it that way, Senator Gail Kopplin from Gretna; Senator Elaine Stuhr of Bradshaw; our committee clerk, excuse me, counsel, you've been promoted almost, committee counsel is Tammy Barry. I'm Ron Raikes, District 25. Our committee's Vice Chair is Senator Dennis Byars from Beatrice; Senator Vickie McDonald, St. Paul; Senator Gwen Howard, Omaha; and Senator Ed Schrock, Elm Creek. And I think Ed is around so he'll be along shortly. I guess the other preliminaries we're getting fairly into this by this time of the session. Please, if you have a cell phone, turn it off. I think I've covered it. I must be getting proficient at this. So if that is true, let me proceed quickly. LB 556, how many do we have who plan on testifying on LB 556, if you'd just

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raise your hands. Okay. All right. How many on LB 138? Okay. How many on LB 303? Okay. How many on LB 460? One, okay. How many on LB 449? One, two, three. And on LB 624? Okay. Threw me off a little bit. A lot of you are here in support, which is great, but...okay. With that, we'll make our limit five minutes per testifier. The green light will come on at the beginning. When the yellow light comes on, you have one minute remaining. And when the red light comes on, the trap door opens. (Laughter) So with that, we have Senator Beutler here to introduce LB 556. Welcome, Senator.

LB 556

SENATOR BEUTLER: (Exhibit 1) Thank you, Mr. Chairman. Members of the committee, thank you for taking time to hear LB 556. This bill involves an unhappy dispute between a great university and a great private enterprise here in Lincoln, mainly over the sale of textbooks to university students. And Senator Schrock and myself, who introduced this bill, chose to get involved with this matter simply because it appeared to us that some sort of compromise was needed and could benefit all parties involved, the students, the university, and the company in question. The students should get maximum choice when it comes to selecting textbooks, they should get timely choice, and they should get competitive prices. The university should get the benefit of a reasonable return on its contract with the on-campus bookstore and a reinforcement of its reputation for dealing fairly with the business community. And the Nebraska Bookstore should get a fair playing field. Let me set the stage for you and then you can listen to both sides tell their story and make a judgment. I believe personally that that judgment should be that the university should not allow the use of what is effectively a kind of credit instrument, sometimes called a proprietary card, for the exclusive benefit of the on-campus provider of new and used textbooks. The credit instrument in this case is the NCard. The NCard was originally intended to be simply a student identification card. It evolved into a kind of credit card when the university allowed it to be used to buy new and used books and textbooks on the on-campus bookstore, at the on-campus bookstore. Books could be purchased and paid for at a later date. Furthermore, the university involved itself in a consolidated billing statement prepared by the

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university, which involved university expenses as well as bookstore expenses. The NCard cannot be used as a credit instrument in any off-campus bookstore such as the Nebraska Bookstore. You may think this is no big deal given the students' access to regular credit cards, to debit cards, and cold cash. But wait until you hear the effect the NCard's deployment as a credit instrument had on Nebraska Bookstore's new and used textbook sales. It was devastating. I passed out to you a chart showing what happens at other universities. Overwhelmingly, other universities use their student identification cards as debit cards, not as credit cards. These debit cards can be used by and large on or off campus. You can see that what we're doing here at Nebraska is not what is normally done in other places. What is done in other places allowing on- and off-campus use of the NCard as a debit card would be an appropriate solution in my opinion. And it would be an appropriate compromise from the perspective of Nebraska Bookstore. They sent to me a statement which says: It is our continued position that if the University of Nebraska would limit their credit offerings to a debit card usable on and off campus like the overwhelming majority of their peers, we would have no debate. But they choose to issue a proprietary card and limit its usage to the on-campus store and that is what has tilted the playing field so violently. With that, there will be others who can talk about the chart at some length. The two columns that were of such interest to me and the reason that I passed it out to you was simply the column indicating that in most cases it was used as a debit card. And in most of those cases where it's used as a debit card, it can also be used off campus as well as on campus. With that, Mr. Chairman, I will end and allow the proponents to make their case.

SENATOR RAIKES: You, I presume, are going to offer yourself up for questions.

SENATOR BEUTLER: I will most certainly offer myself up.

SENATOR RAIKES: Okay. And we'll entertain them at this time. Senator McDonald has one.

SENATOR McDONALD: I'm trying to get the gist of all this information. You're saying that the NCard has hurt the Nebraska Bookstore in sales.

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SENATOR BEUTLER: Right.

SENATOR McDONALD: How many other places can you purchase used books for university? I mean is there other places in town and is there accessibility on the Internet to find used books?

SENATOR BEUTLER: There is accessibility on the Internet, I know that. I am not familiar with whether there is any other significant, that is any other significant store with a large inventory of used books on campus in town. But they'll be able to give you that information.

SENATOR McDONALD: Okay, so we really don't know that the declining book sales at Nebraska Bookstore if it was because of Internet sales...we don't know where those people went. Do we know where they went to purchase their books?

SENATOR BEUTLER: I think some people...I think you'll be given information here that would indicate that it is the NCard that is the problem, but that's a legitimate question.

SENATOR McDONALD: Okay, thank you.

SENATOR RAIKES: Any other questions? Senator Howard.

SENATOR HOWARD: I'm just curious. Is the processing of the billing for the card handled strictly on campus? Is it just an internal mechanism? It doesn't have a bank involved at any level, does it?

SENATOR BEUTLER: Well, see, when it's used as a debit card I understand that there is an agreement with Wells Fargo. So if you have an account at Wells Fargo, it can be used as a debit card crediting or debiting that account.

SENATOR HOWARD: That's really interesting. I didn't realize it was a debit card as well, but...

SENATOR BEUTLER: Yeah.

SENATOR HOWARD: ...an interesting factor. Thank you.

SENATOR RAIKES: Other questions? Senator McDonald again.

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SENATOR McDONALD: Would that require a credit check then to do that or just debiting from the account?

SENATOR BEUTLER: I am not familiar with all those procedures so I would ask that you refer that question to some others who would know better.

SENATOR McDONALD: Okay.

SENATOR RAIKES: Other questions? Senator Beutler, would it be fair to say then you would be comfortable with resolving this by taking away the credit privileges that are now available to NCard users?

SENATOR BEUTLER: I think that the Nebraska Bookstore has indicated that that would be an acceptable solution.

SENATOR RAIKES: Don't students come out the worse on that?

SENATOR BEUTLER: In the sense that...

SENATOR RAIKES: They now have at least one option where they can use credit to buy books. Under this proposal...

SENATOR BEUTLER: Well, I think that's arguable, Senator, in the sense that what I think really happens under the mechanism that's been set up is that students are being encouraged to buy new books instead of used books at a store that has an inventory that's not nearly as great in terms of new books. So it's hard to say who comes out with...

SENATOR RAIKES: So when you say encourage, you're talking about the availability of new...of used versus new books.

SENATOR BEUTLER: Yes.

SENATOR RAIKES: Okay. One other question, when did the use of the NCard as a credit card come about? I see something about 1998 contract. Was that done at the time of that initial contract or has that happened since then?

SENATOR BEUTLER: It's my understanding, Senator, that at the time of the contract that was not envisioned. As far as I can see, there's nothing in the contract that relates to

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the use as a credit card. And I think that happened after the contract went into effect. You know, there's an interesting problem here, and I can understand the university's dilemma. They have a contract that is for a certain minimum amount or if sales go above that minimum amount, then it's a percentage of gross revenues. So they have an incentive to do everything possible to improve the sales at that bookstore. And I can see how they would very easily slip over from debit to credit if that effectuated and improved their position under the contract.

SENATOR RAIKES: Okay. Senator Schrock and then Senator Byars.

SENATOR SCHROCK: What happens if they charge a bunch of books and about half way through the semester the kid just says, college isn't for me, I'm leaving and the books haven't been paid for?

SENATOR BEUTLER: Well, I think under the...you're talking about with the on-campus bookstore?

SENATOR SCHROCK: Um-hum.

SENATOR BEUTLER: If I'm remembering correctly, and I may be a little off on this, but they bill within 30 days and you have to pay within another 20 days. So I'm not sure how that would...how they follow through on that.

SENATOR SCHROCK: Somebody will know the answer.

SENATOR BEUTLER: But that's the basis of the billing.

SENATOR RAIKES: Senator Byars.

SENATOR BYARS: Senator Beutler, I know there will be people, they always have a lot more information than we do, but was there some, as I'm trying to remember, wasn't or isn't there some financial aid tied to those profits that the University Bookstore is generating, some financial aid to University of Nebraska students?

SENATOR BEUTLER: Some...yes. I mean the overall contract has a number of different provisions in it that relate to the obligations of whoever gets the bid. I think, for

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example, they give some scholarship money, they're required to do that under the contract. And I think they're required to pay for a series of programs that were originally funded with bookstore proceeds back when the university owned the bookstore. So there were obligations and benefits on both sides under the contract, and that would be the normal case in such a contract.

SENATOR BYARS: Okay, and probably better for other people to answer maybe from the university, but what would happen as those profits, as this has opened up as you're proposing LB 556, profits as they would diminish and the whole reason for the contract in the first place, what would happen to the financial aid? Am I assuming a reduction?

SENATOR BEUTLER: No. They still have the obligation with respect to the financial aid.

SENATOR BYARS: Without the income.

SENATOR BEUTLER: Well, it's not income dependent as I recall. And you can certainly ask the...

SENATOR BYARS: But if the university's revenues went down, they would have less dollars to fund the student aid. That would be pretty logical to me.

SENATOR BEUTLER: No, the student aid was only about \$10,000, Senator, I think. So there's no question but that the student aid is not going to be imperiled by anything on the scale of what we're discussing.

SENATOR BYARS: Okay. I can get some other information. Thank you, Senator, appreciate that.

SENATOR BEUTLER: Yeah.

SENATOR RAIKES: Senator Stuhr.

SENATOR STUHR: Yes. In lines 14, 15, and 16 when you talk about any business not designated as university business to reimburse the University of Nebraska for any reasonable costs and then it also talks to pay any reasonable rebates or commissions. Who's going to decide that or?

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SENATOR BEUTLER: Well, it would be worked out between the parties, Senator. And I think there are fairly standard agreements on these types of things that are in place in a number of different business situations that are credit card type situations.

SENATOR STUHR: Okay, all right, thank you.

SENATOR RAIKES: You better escape while the chances are good.

SENATOR BEUTLER: No, I'm coming back to close, Senator.

SENATOR RAIKES: Oh, gee, you're a glutton for punishment. Thank you, Senator.

SENATOR BEUTLER: Thank you.

SENATOR RAIKES: We'll move to proponent testimony now. Yes, sir, welcome.

MARK OPPEGARD: (Exhibits 2, 3) Good afternoon, Chairman Raikes and members of the committee. I'm Mark Oppegard, president and chief executive officer of Nebraska Book Company. It's spelled O-p-p-e-g-a-r-d. Passing out a Harris poll that we recently completed that we'll be talking to later in the testimony. Let me first say that I'm a graduate of the University of Nebraska, a football season ticket holder, and a contributor to Husker athletics. My wife and daughter both graduated from University of Nebraska. I started work at Nebraska Book Company in 1970 while I was a student at the University of Nebraska. We hire about 150 college students each year to work in our operations throughout Lincoln so you can think over those 35 years we've hired thousands of college students to work for Nebraska Book Company. Nebraska Book Company was founded in 1915 as a college bookstore serving University of Nebraska. Currently we operate 124 college bookstores around the country. Nebraska Book Company has 240,000 square feet of warehouse space in south Lincoln where we distribute our used textbooks from. We sell over 7.7 million used textbooks to over 2,500 college bookstores across the country. South Lincoln is also where our corporate offices are located. We employ about 500 people throughout the state and over 400 of those are within the city of Lincoln.

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Prior to the NCard becoming the issue it is today, Nebraska Book Company enjoyed about 40 percent share of the business in textbooks at the University of Nebraska. Today it's less than 10 percent. That's happening even though over 50 percent of our inventory is in used textbooks, which means students save 25 percent on the price of those books. The first week of classes during the current semester we surveyed 1,100 titles at the University Bookstore. Of those titles, 62 percent of them did not have a used book on the shelf, whereas Nebraska Book Company had used books in each case. We would have had additional used books to supply there if we'd have the demand. Regards to the NCard, the university has devised a method in which the student can purchase their textbook at the on-campus bookstore for credit. This is not just students with financial aid. It includes all students. The charge is added to the consolidated account and then sent home or paid by the student or by their parents. When the financial aid is received, it's applied to that account also. The university has told us that they could not do this to a third-party bookstore, however, it is currently being done at the University of Houston. Students that suffer most by not being able to shop for the best price are lower income students. Those are students that are on financial aid and have to use those funds to further their education. They should be allowed to use those funds in any way they wish to be able to stretch and maximize those dollars for the betterment of themselves. The money that the university is disbursing in financial aid is really the students' money and the university really only the vehicle to disburse those funds. The university will say that we had an opportunity to bid on the contract in 1998 and we did. We were not selected to be the vendor for the contract, but this isn't about that. We think this is about saving students and their parents on the cost of textbooks. We think with the high cost of textbooks and the high cost of education today that should be a top priority for all of us, including the university. The NCard effects are seen every semester at Nebraska Bookstore when students bring their books to the cashier and then they're found out that we don't accept the NCard. Books are left at the counter. They go down the street to University Bookstore without even checking prices. We conservatively estimate that students could save over \$500,000 in their purchases of textbooks. We have attempted to work out a business agreement with the university and

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have not had any success to date, even though the attorneys on both sides say that it is doable. The university is concerned about their bookstore contract. I don't disagree with that. However, we compete on those contracts around the country all the time, and we currently have seen going at 13 to 13.5 percent which is higher than what the university is currently receiving. These contracts are very competitive and no one wants to lose a significant account like University of Nebraska. We are here today to come up with a solution to an issue that is costing students more money for their textbooks. The university and the students served think that the NCard is a good service. But why not make it a better service by offering it to off-campus bookstores? That's what students have indicated. In the Harris poll that we just distributed to you, 87 percent feel that it would be better used if we could use it off campus. We don't want to continue to sell used books to Texas or Oklahoma or any other Big 12 school when we could sell them at UNL. I'm a UNL graduate, and I know that students at UNL are paying more for their books than they need to. We'd appreciate your support and I'd answer any questions you might have.

SENATOR RAIKES: Okay, thank you very much, Mark. Senator Byars.

SENATOR BYARS: Mark, thank you for being here, appreciate it. Did I...I think I heard you correctly that you said really the contract as bid really we shouldn't pay attention to that at all?

MARK OPPEGARD: Well, back at the time the contract was bid, we submitted a bid. And our bid was for the fact to take all of the business into Nebraska Bookstore. It would have been all of the business. We feel our bid is close to \$2 million better. However, it was taking the bookstore out of the Student Union. It also, when the committee came back to us, they also said that they didn't want to diminish the competitive nature of textbooks so they felt they wanted to have a competing bookstore. So really...and the NCard was not part of the contract at all either. So really all this happened after that in regards to the NCard being a part of that. That's why the bid really, you know, they could select whoever they want. We think they left money on the table, but that's their decision.

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SENATOR BYARS: Okay. That's for us to make the decision.

MARK OPPEGARD: Yeah.

SENATOR BYARS: And you made the statement also that you could save, I think the statement was in your brochure that my son got or my wife got for my son, you could save us up to \$500,000 a year.

MARK OPPEGARD: Um-hum.

SENATOR BYARS: Want to talk about that now?

MARK OPPEGARD: Sure, sure. Okay, we see costs of textbooks have risen dramatically and let's say they're about \$100. The used book would be sold at \$75. We have over 50 percent of our titles, our books in the store are used currently. The University Bookstore sells between 25 and 30 percent used. When you see that difference in there at \$25 a book, if one student saved \$25 on one book, there's roughly 20,000 students, applying the math that's roughly \$500,000. That's only for one semester. If we added, go out over multiple semesters and even summer sessions, it could be greater than the \$500,000 that they could be saving. So it's really...we have over 3 million used books in our south Lincoln warehouse that we could put down there in Lincoln to sell there instead of at other campuses. Students could save a lot of money by buying used books. It's 25 percent on each title, on each book, so the numbers add up pretty quickly in the whole scheme of things.

SENATOR BYARS: But if I used those numbers and I take your Harris poll which would be less than 2 percent of the total student body at the university, should I give weight to that less than 2 percent of the 20-some thousand students?

MARK OPPEGARD: Less than 2 percent, I guess I don't understand what you're...

SENATOR BYARS: Four hundred students out of the 20-some thousand you just...

MARK OPPEGARD: Right, right, 400, right. That is a valid survey sampling to create a valid survey pool. I guess you

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can read that any way you want, but Harris certainly is very reputable. I respect that, Senator, yes.

SENATOR BYARS: Okay, appreciate it. Thank you.

SENATOR RAIKES: Other questions? Senator Howard.

SENATOR HOWARD: Thank you, sir. I'm just a little curious. You say that you have other bookstores in other states at other universities and colleges.

MARK OPPEGARD: Um-hum.

SENATOR HOWARD: Are you a Nebraska company or I'd like just some clarification on that.

MARK OPPEGARD: Our corporate offices are in Lincoln, Nebraska. We've been here for 90 years and we have over 500 employees in the state. I think that qualifies us as a Nebraska company. I mean our corporate offices are in south Lincoln. We'd invite any of you out at any time.

SENATOR HOWARD: So you just have branch offices in other states?

MARK OPPEGARD: Yes. We have stores serving stores in University of Maryland, at Penn State, at Florida, at Texas, I mean, yeah, 125 different campuses all across the country.

SENATOR HOWARD: What are they known as on those campuses?

MARK OPPEGARD: Different names. For instance in Maryland it's known as the Maryland Book Exchange. It's tied to the local community. Many of those cases were stores that we acquired from existing customers and those stores have been in existence for many years.

SENATOR HOWARD: And you live here in Nebraska.

MARK OPPEGARD: Absolutely. You know, I moved here when I was eight years old and I'm a graduate. And like I said, I've got brothers and sisters that are graduates.

SENATOR HOWARD: I won't touch that how long that might be (laugh). Thank you, sir.

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SENATOR RAIKES: Senator Schrock.

SENATOR SCHROCK: You buy a lot of used books from students on campus?

MARK OPPEGARD: Absolutely, we sure do. In fact...

SENATOR SCHROCK: So a lot of the Follett books end up at your bookstore being bought back or are you...

MARK OPPEGARD: It's...

SENATOR SCHROCK: Or does...I suppose Follett buys a lot of used books from the students here too?

MARK OPPEGARD: Right. Students at the end of the semester can sell their books back to any store they want. It doesn't have to be where they bought them to begin with. And in fact, it's another competitive issue as far as what you're going to pay. In fact, we buy back more books than we can sell back to the campus, which is kind of a sad state of affairs, too, because of the fact that we don't have the demand to sell them because of the convenience of the NCard. So those books go into our distribution center and are distributed to other campuses where we can sell those. So if that makes sense.

SENATOR SCHROCK: And you have similar contracts with other universities that Follett has with the University of Nebraska, is that correct?

MARK OPPEGARD: That is correct, sir.

SENATOR RAIKES: Senator McDonald.

SENATOR McDONALD: So your main objective is selling books. That's what you're in the business to do is sell books.

MARK OPPEGARD: Buy and sell books, yes.

SENATOR McDONALD: So your distribution center is here in Lincoln?

MARK OPPEGARD: Yes.

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SENATOR McDONALD: So if someone from Maryland bookstore that you operate needs a book and they don't have it, it comes from the distribution center that you have here.

MARK OPPEGARD: Absolutely.

SENATOR McDONALD: So you're able to take the books even if you'd bought them somewhere else, take them to your distribution center, and send them all over.

MARK OPPEGARD: That's correct.

SENATOR McDONALD: And so you can move books back and forth. So as far as being the bookstore of choice, so to speak, you're still selling books. It's just you'd like to sell more books here?

MARK OPPEGARD: Absolutely. When we see students leaving books on the counter that are used books to go down the street just because they can't use their NCard there as a credit purchase, we know that students want to shop there, but the convenience of the NCard doesn't allow them to do that. We have a lot of used books and just to give you a quick example, the demand to supply for used books is four to one. So there's four people looking for a used book. So you kind of need to make sure you spread those out where you can sell them and that's why we could sell a lot more used books here in Lincoln if we had that demand. And the NCard is diminishing that demand.

SENATOR RAIKES: Okay, a couple of questions. I think you addressed this one. Students come shop in your store, leave the books on the counter when they find they can't use the NCard, but they can use it as a debit card.

MARK OPPEGARD: That's correct, sir.

SENATOR RAIKES: So it's just the whole issue here comes down to credit...

MARK OPPEGARD: That's correct.

SENATOR RAIKES: ...whether or not. So one way to resolve this would be to make it so that the university could not

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offer the NCard as a credit instrument in the university store. Now that would probably solve your problem?

MARK OPPEGARD: It would level the playing field, yes.

SENATOR RAIKES: But it would make the students the worse off.

MARK OPPEGARD: It would make it more inconvenient for students.

SENATOR RAIKES: Okay. Would it be possible for a successful businessperson such as yourself to come up with an arrangement particularly if you have these...you have a product that is clearly in demand; namely, used books to offer a credit program of your own that would match the credit that is provided through the university NCard?

MARK OPPEGARD: Actually, sir, we did try that using the NCard because an NCard is a mag stripe card. It confused the issues for students because they thought when that bill went home it was the bill that was on the consolidated bill. So there was much confusion created through trying to do that. It still does not make it as convenient as what the university has created through the NCard.

SENATOR RAIKES: But if I understand you correctly...

MARK OPPEGARD: It was tried.

SENATOR RAIKES: ...that avenue is possible.

MARK OPPEGARD: It was tried. It was tried, yes.

SENATOR RAIKES: Okay. One last question and then I'll let you go. You mentioned Houston. Is Houston the only place that has a proposal such as might be suggested here; namely, that the university offers credit for both on-campus and off-campus purchases?

MARK OPPEGARD: As far as credit, that's true. Obviously, there's a number of (inaudible).

SENATOR RAIKES: So there's only one other place in the country that you know about...

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MARK OPPEGARD: I would have to confirm that, but to my knowledge that's true.

SENATOR RAIKES: Okay.

MARK OPPEGARD: I'd prefer to check that.

SENATOR RAIKES: And in effect they act as a bill collector for student purchases anywhere in the community or am I incorrect on that?

MARK OPPEGARD: For Houston?

SENATOR RAIKES: Yes.

MARK OPPEGARD: Actually what they do is allow each student up to \$400 in credit for their books at that campus. They can use it at the on-campus or the off-campus store, and the on-campus store is a contracted store so it's not their own store, it's a third party store. And then those bills go directly to their university account and then paid for through that.

SENATOR RAIKES: Okay. So would it be fair for me to conclude that there really is no other place that you know of in the United States that would do business according to what this bill would prescribe, particularly if the resolution here were for the university to provide credit for off-campus on an even-handed basis with on-campus?

MARK OPPEGARD: Right. I would like to defer to check on that, but to my knowledge right now.

SENATOR RAIKES: Okay, sure, okay. All right. I see no other questions, but thank you very much for being here.

MARK OPPEGARD: Thank you very much, sir.

SENATOR RAIKES: Other proponents, LB 556.

MARK OPPEGARD: This is my testimony. Can I just leave...

SENATOR RAIKES: Oh, please, yeah. Yes, sir, welcome.

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BRENT STANFIELD: (Exhibits 4, 5) Senator Raikes, members of the Education Committee, I appreciate the opportunity to come speak to you today. My name is Brent Stanfield, that's S-t-a-n-f-i-e-l-d. I'm a student at the University of Nebraska-Lincoln where I've been attending school for six years now, and I'm a second year law student there. I'm also a member of the student government and an ASUN senator. And it's in that capacity that I'm here to speak to you today as well as from a perspective from a concerned student. Let me first start off by giving you a perspective from ASUN. Now I'm not here to speak for them. They already have done that when they passed Government Bill 8 on March 9, last Wednesday. The text of that bill as it was originally presented and finally amended and what we passed can be found in this paid advertisement taken out by the Nebraska Bookstore in the student newspaper. And I'll go ahead and leave that with my written testimony when I'm done here. But let me tell you what the intent of the bill was. The bill passed by ASUN withheld its support from LB 556 due to the uncertainty surrounding how the bill, as it's currently written, will affect students and the use of the NCard on campus. Nevertheless, the bill explicitly stated that Student Senate supported the idea behind LB 556. The Student Senate supports a competitive system and more options for students to buy books. Besides the final text of the bill, another amendment was proposed. The text of that amendment would have encouraged the university directly to enter negotiations with the Nebraska Bookstore to allow students to use the NCard at the Nebraska Bookstore. The amendment contained much stronger language but was narrowly defeated in a 12-13 vote. The Nebraska Bookstore had a professional polling company conduct a poll on campus. The results of that poll showed overwhelming support among the student body of the possibility that they could use their NCard at the Nebraska Bookstore. I believe the results of that poll are entirely accurate and very relevant to the topic being discussed today. Students want a competitive system, and they want more options to buy books. Seven years ago the university entered into an agreement with Follett to operate the University Bookstore. The university accepted Follett's bid over a competing bid by the Nebraska Bookstore. Some would say that bid was better. Ostensibly, one of the rationales for their decision was to foster competition and provide students with more options, a good decision in my opinion. However, it would be very ironic if

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that decision and the implementation of the NCard only at the University Bookstore actually ended up reducing competition and limiting student options. Let me close by saying this. I'm puzzled by the hard-line stance the university has taken on this issue. Most of the rationales I heard from that side have been unpersuasive to me, and I have listened to both sides very carefully and I have done my homework on all the issues that I think are relevant today. What does disturb me the most is that the university has positioned itself in such a way that brings their interests in opposition to the interests of students on this issue. Let me briefly explain. The university's deal with Follett pays the university \$1.5 million per year guaranteed up to a certain amount of sales. Any amount over that sales and the university gets at least 11 percent of sales that are additional to that. Because the university is paid per sale, it benefits more the more students pay for books. This, in essence, makes them a business partner with Follett to the exclusion of the Nebraska Bookstore. Now whether or not this is actually what is the driving force behind their decision to prevent student use of the NCard at the Nebraska Bookstore I can't really say. I can't speak to their motives. But it's the wrong position. Unfortunately, the students who are hurt the most by the system are those who require student aid for school. These students, including myself, are almost required to put their books on the NCard so that it will go to their student bill and so that student loans will pay for them. For these students, the current system gives them the least options for buying books and the least access to competitive pricing. These students should be the ones to have the most options so they can stretch their student aid money as far as it can go. The current system makes it very difficult for them to do that. That's all. Any questions?

SENATOR RAIKES: Okay, thank you, Brent. Questions? A couple of things. You went through the legislative history of the student body which confused me a little bit. I was not able to keep up with you.

BRENT STANFIELD: Okay. Sure.

SENATOR RAIKES: At first there was opposition to LB 556 and then there was an amendment which was narrowly defeated.

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BRENT STANFIELD: No, and I'll clarify that. In this article actually, this paid advertisement...

SENATOR RAIKES: Okay.

BRENT STANFIELD: ...taken by Nebraska Bookstore does go through in detail. But essentially what happened is the administration came with a presentation several weeks ago. And before the Nebraska Bookstore could present their side, a bill had been introduced in the student government coming out in opposition to LB 556. We tabled that bill for a week to give the Nebraska Bookstore the ability to come in and discuss their side. When they did come in and discuss their side, we amended the bill that was on the table originally to a version that comes out and doesn't give its support to LB 556 because it's concerned about the language and how that will affect student use of the NCard. But what it does do is it does come out in favor in principle of the more competitive system at UNL. And the amendment that I was referring to, there was an additional amendment on the table to actually strengthen the language of the bill to encourage the university to negotiate with the Nebraska Bookstore. Many senators thought that would send the wrong message that we were coming out in favor of LB 556 and it narrowly was defeated 12-13. But the underlying wording of the bill still says we're very much in favor of a competitive system at UNL.

SENATOR RAIKES: Sounds like a careful political balance.

BRENT STANFIELD: It was, it was.

SENATOR RAIKES: That never happens around here. (Laughter) Well, let me guess that the reason that students would not be in favor of LB 556 is that one of the results could be that they no longer get credit on the NCard even at the university's campus.

BRENT STANFIELD: Sure. I think that is probably the most pressing concern especially of the senators. I think one senator termed it "the nuclear option," the university's nuclear option to completely pull the NCard from student use. And I think it's a very, you know, striking bargaining chip that the university has because it's a very well-liked student services. Students like using the NCard, especially

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on campus. And, of course, they would also like to use it at the Nebraska Bookstore. And I'm not saying they want to use it everywhere around Lincoln. I don't think that's their position at all. But they certainly would like to use it at places where they frequent to buy school supplies, things that are necessary for school and textbooks certainly are that. I think that they would very much appreciate and like to use it there, but they don't want it taken away from them completely. I think that's very true.

SENATOR RAIKES: I'm going to read to you quickly one of the questions on the survey: Not being able to use the NCard at other bookstores doesn't allow me to shop for the best deals on books--77 percent agree, 22 percent disagree. But you can use the NCard. It's a debit card, it's not a credit card, but you can use it, right?

BRENT STANFIELD: Well, speaking, and to my knowledge the debit card option has only been available this year. So many students have not been able to really maybe understand that process or what exactly goes into that. And I think the answer to that simply is one of the things that makes the NCard so beneficial to students is the fact that many students send their bill home to their parents and that's where the bill goes. Using the student NCard allows that bill to go to the consolidated bill, the university consolidated bill, which is sent home to parents. Other students rely on student aid to pay for their books so they want their book payments to go to their student account which will then, when their student aid arrives, it will be credited against that account and they can do that. So that's another reason why they would use the NCard. And a debit card may give some of those benefits, but it really...a debit card is of no more use than anybody can get a debit card at a bank. And the fact that the NCard is also a debit card doesn't give it any more benefits to the Nebraska Bookstore and other people who sell books than any debit card that they could get at any bank. So it's really not that much of a tool for students to use in purchasing books.

SENATOR RAIKES: Senator Byars, I apologize for butting ahead of you there.

SENATOR BYARS: No, I didn't have my hand up. Thank you,

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Senator Raikes. Thank you. You do a very effective presentation. You obviously get a good education at the University of Nebraska Law School.

BRENT STANFIELD: I think so. I think I've got an excellent education.

SENATOR BYARS: Okay. At the end of the day when we leave the legislative floor and the board vote goes up and there are 49 senators, and if a legislative bill has been proposed and you have 24 votes in favor and 25 votes opposed, the bill is defeated.

BRENT STANFIELD: Right.

SENATOR BYARS: Now if I cut through all of this, amendments that have been offered, adopted, support for LB 556 still failed. The students on the associated student...your student council, if you will, student governing group voted against supporting LB 556. That's all I want to know.

BRENT STANFIELD: Yeah, that's absolutely true. And I think that, if I could explain that real quickly, I think that...

SENATOR BYARS: I think you have.

BRENT STANFIELD: Well...

SENATOR BYARS: And I really don't care for any more explanation. That's all I wanted to hear. At the end of the day the vote was, whether it was 12 or 13, it was opposed supporting LB 556. Thank you.

BRENT STANFIELD: That's right.

SENATOR RAIKES: Senator Howard offers you a reprieve, though.

SENATOR HOWARD: Thank you. Thank you, sir. I'd just like a better understanding. You are in law school.

BRENT STANFIELD: That's right.

SENATOR HOWARD: And you are on student loans.

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BRENT STANFIELD: Yes.

SENATOR HOWARD: Getting federal help...

BRENT STANFIELD: Um-hum.

SENATOR HOWARD: ...to complete this education. What year are you?

BRENT STANFIELD: I'm a second year law student.

SENATOR HOWARD: Second year. So is it presented to you that in order to access the student loans to pay for the books that you need to put the charge on the NCard?

BRENT STANFIELD: Well, it's been my experience as I've gotten...as I've received student loans over the past several years is that the way this process works is you sign up for classes. When you sign up for classes when school semester approaches, you figure out the books that you need for class and you buy those books before the first day of classes. Okay. Now unless you have the cash to buy those books, and my books were over \$600 this semester for law school, unless you have the cash to lay out for those books, the only real alternative, unless you're going to put it on a credit card, which I know a lot of students don't like to do, is to put it on your student account. And because your loan check tends to not come, at least the check form, it gets disbursed I guess to your account about the first week of school, but the check form usually doesn't get there until at least the second week of school. And you can't wait that long to buy books. You have to have them for the first day of class. So given that process, it becomes very difficult to buy books anything other than through the student account using your NCard if you want your student loans to pay for them and you don't want to put the cash forward yourself. So that is a buying decision paramount in the heads of students as they go to buy books every semester who need student loans to pay for their books.

SENATOR HOWARD: So does your federal loan, grant, whatever it may be, go directly to you or directly to the school?

BRENT STANFIELD: When you have a balance on your account, the first thing that the student loan check does is it pays

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that balance. Then whatever is left over is sent to you by check. So when...so obviously you want your books to be on that account so that it just does that and you can have already bought them, be using them, and then you don't have to wait until you get that check in the mail to go and purchase your books.

SENATOR HOWARD: So it's practical and convenient.

BRENT STANFIELD: Sure.

SENATOR HOWARD: Okay. Thank you.

SENATOR RAIKES: Senator McDonald has a question.

SENATOR McDONALD: You talk about credit cards. What percentage of kids in college have credit cards?

BRENT STANFIELD: I would assume 80.

SENATOR McDONALD: At least 80 percent. And then it's been a while since my kids went to school, when...say those books were bought at the Nebraska Bookstore and they have the receipts for them. Can they take those...and put them on a credit card and have 30 days to pay for the bill, take that receipt and take it to the financial aid office and get reimbursed with that when the money comes in? How is that done? Can you explain that?

BRENT STANFIELD: I'm so sorry. Maybe I didn't understand your question. Are you saying students...

SENATOR McDONALD: Okay, those books were purchased...

BRENT STANFIELD: At the Nebraska Bookstore.

SENATOR McDONALD: ...on the Internet...

BRENT STANFIELD: Okay, sure, sure.

SENATOR McDONALD: ...or at Nebraska Bookstore, someplace other than the bookstore that's in the (inaudible) and they purchase those books. And they have the receipts for those books that they purchased. Can they take that to the financial aid office and have that applied?

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BRENT STANFIELD: Their bill for their credit card bill?

SENATOR McDONALD: Their books that they purchased.

BRENT STANFIELD: They can't take it to the financial aid office and have it applied. Now they would have to wait until they receive their check from the financial aid office. Then they would have to write a check to the credit card company to pay for their books.

SENATOR McDONALD: But they could still use that money to...

BRENT STANFIELD: Once they receive the money, sure they could.

SENATOR McDONALD: Once they receive the money.

BRENT STANFIELD: But I think maybe that's an important question. People who are receiving student aid I think it might be an interesting discussion how much credit card debt they may already be in because they have to be on it and that's why they're on student aid or one of the reasons and how much of a...how good of an option that really is providing them when they, in the alternative, all they have to do is go to the University Bookstore and swipe their card at the University Bookstore and they don't have to deal with any of that, you know, rigamarole. They just have to go to the University Bookstore and, boom, get it done and not have to worry about with the credit card company or anybody else like that or how much debt they may already have. So I think that is also...I mean there's obviously different ways it can be worked out. But you deal with students who may not be as...you know, or may not want to undertake such a process and just do it for convenience.

SENATOR RAIKES: Senator Stuhr and then Senator Byars.

SENATOR STUHR: Okay. I have a question about your NCard. Can it be used only for books?

BRENT STANFIELD: No. The NCard can be used for almost any campus service. There are four restaurants in the Nebraska Union that it can be used for. There's a Starbucks in the Nebraska Union that it can be used for. It can be

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used...there's quite a few small vendors around campus and the East Campus Union. Some of them I think are run by this university and some of them are by student groups that sell sandwiches and it can be used for all those as well.

SENATOR STUHR: So my question is who sorts this out then? If you have all of these other expenses on your NCard, but you're really talking about books that the university is...or does the university pay all of, you know, food and any miscellaneous things that you might want to buy from?

BRENT STANFIELD: Well, I don't have a perfect knowledge of that so I'm not completely competent to testify on it.

SENATOR STUHR: I'm a little fuzzy on that.

BRENT STANFIELD: But it does all go...every purchase that you do on the NCard goes to your consolidated bill. And so it's all on one bill for you to view, you can go to the web page they provide for you and look at it. So university does sort all the purchases that are made with the NCard. Does that answer your question?

SENATOR STUHR: Okay. And then only the cost of the books is...

BRENT STANFIELD: The cost of the books is shown on there, I believe, but it's just shown as a bunch of other purchases that you've also made.

SENATOR STUHR: All right, thank you.

SENATOR RAIKES: Senator Byars.

SENATOR BYARS: Just curious, you're a second year law student now or you're in your third year?

BRENT STANFIELD: I'm a second year.

SENATOR BYARS: Second year, okay. Are you fortunate enough to have a good clerk position with...

BRENT STANFIELD: Sure, I've had a clerkship with a law firm here in town, but I'm actually getting married this summer so I'm moving out of the state for a year and so I don't

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have one right now because like everybody knows I'm leaving for a while.

SENATOR BYARS: Are you working at all or are you...

BRENT STANFIELD: Not at this point right now, no.

SENATOR BYARS: Well, we're sorry to see you go.

BRENT STANFIELD: Well, I'll be back, there's no doubt about that.

SENATOR BYARS: Okay, good, you promise.

BRENT STANFIELD: I promise.

SENATOR RAIKES: Okay, thank you very much, Brent.

BRENT STANFIELD: Thank you very much.

SENATOR RAIKES: Move to the next proponent, LB 556. Welcome.

DOMINIC DiSALVO: (Exhibit 6) Chairman Raikes, members of the committee, appreciate you taking the time to hear my point of view. My name is Dominic Disalvo, D-i-S-a-l-v-o. I'm currently a junior at the University of Nebraska, an NCard user, and I've worked at Nebraska Bookstore for the past three years. I'm here today to support LB 556 and provide the committee with petitions signed by students at UNL and collected at Nebraska Bookstore that support our efforts to get the NCard to be used at the off-campus bookstore. I work in the textbooks. I've heard the students mumble and groan about not being able to use their NCard to pay for their books. Most of them don't even realize that we're not associated with the university and just assume that they can put them on their consolidated bill and have their parents worry about it. They become frustrated and angry when they find out that we cannot accept it. I think mostly the students just want the convenience and the options to go somewhere else when the University Bookstore is out of their title they are currently looking for. I believe the polling numbers of the Harris poll are correct. The vast majority of the students simply want options, simply want a choice, simply want to

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save money. As a student, I know the cost of education is very high. The power of the dollar, how far it goes, can really make or break you. And it seems the university just isn't concerned with that as far as textbooks are concerned. It's a lack of convenience, it's a lack of options, it's a lack of fair market practices. That's pretty much it.

SENATOR RAIKES: Okay.

DOMINIC DiSALVO: I'll take questions.

SENATOR RAIKES: Thank you, Dominic. We do have one.
Senator McDonald

SENATOR McDONALD: You passed out the student's ID numbers. Is that their Social Security numbers?

DOMINIC DiSALVO: That's their Social Security number.

SENATOR McDONALD: Do you feel that's a good idea to pass those out?

DOMINIC DiSALVO: No. They didn't have to write it on there I suppose.

SENATOR McDONALD: No, but to publicize that and pass it out to various people.

DOMINIC DiSALVO: No, I do not think it is. I think that's why the university no longer uses that as their student...

SENATOR McDONALD: But these are still their Social Security numbers.

DOMINIC DiSALVO: Yes, they are.

SENATOR McDONALD: Which is kind of confidential.

DOMINIC DiSALVO: Yeah.

SENATOR McDONALD: Thank you.

SENATOR RAIKES: Okay. Any other questions of Dominic?
Senator Stuhr has one.

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SENATOR STUHR: Yes, Dominic. How many students do you think buy their books over the Internet these days? Is that increasing?

DOMINIC DiSALVO: Oh, yeah, it's increasing. How many exactly?

SENATOR STUHR: Oh, no, I mean roughly. I mean...

DOMINIC DiSALVO: I would probably say somewhere like 10 percent of the student body most likely has discovered the Internet.

SENATOR STUHR: Just one out of ten of your friends. Have you ever bought books over the Internet?

DOMINIC DiSALVO: I've never bought them. I've sold them, never bought them though.

SENATOR STUHR: All right, thank you.

SENATOR RAIKES: Okay, thank you again, Dominic. Next proponent, LB 556. Yes, sir, welcome.

BARRY MAJOR: (Exhibit 7) Good afternoon. Thank you, Senators. My name is Barry Major, that's M-a-j-o-r. I'm the chief operating officer for Nebraska Book Company. My roots with the University of Nebraska-Lincoln are deep and wide. A number of my family members graduated from the university, including my wife, my grandfather, a number of my aunts and uncles, and many of my wife's relatives. Our son currently attends the university. Mindy and I are season ticket holders for football, platinum level contributors for Husker athletics, Foundation Chancellor Club members--we're Cornhuskers. Mark and I mention our families' history with UNL to point out that this is not about us versus them. This is about doing what is right--creating a competitive environment that will absolutely lower the cost of textbooks to 20,000 students at the university. Nebraska Book Company has 124 retail stores scattered across America's colleges and universities, but our largest store is located here in Lincoln with over 50,000 square feet of retail space. We have stores in Florida, Maryland, Penn State, UC-Berkeley, Arizona, Oklahoma, Baylor, Kansas, Texas A&M to name just a few. Our

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wholesale division sells approximately 8 million used textbooks to over 2,500 college textbooks (sic) including all the schools in the Big 12. We sell more used textbooks to students at those universities that I've just mentioned than we do here at the University of Nebraska. We think that's a shame because it costs the students and their parents money, real money, we think at least \$500,000 a year, possibly up to a million. It's not our ability to compete with Follett. We have a sizable market share at several stores where we compete with them where they are on campus, but UNL is the only market we are in where this noncompetitive type of environment exists and where our market share has declined. In closing, I'd like to make the following points. This is not a legal issue. Our attorney and UNL's attorney have agreed that nothing in the Follett contract prohibits what we are proposing. Furthermore, our attorney was told by UNL's counsel that an outside law firm hired by the university rendered an opinion that in their opinion there was no legal issues prohibiting the use of the NCard at Nebraska Book Company. It certainly cannot be said that it will hurt the financial deal Follett has with the university. We're willing to pay the same commissions that Follett pays and pay all integration costs. It cannot be said that the value of the contract that the university has with Follett will be harmed. Follett has paid more, considerably more, than they're paying the University of Nebraska for schools that are much less prestigious. One community college in Texas was paid 13.5 percent commission and there were two very aggressive off-campus bookstore competitors, but there was no advantage of a credit card like NCard. Eighty-seven percent of the students want to use their cards in our store, and 84 percent of them think they'll save money doing it. The last point I want to talk about is this stack of books right here. These books were actual class registrations of a typical freshman. The books were purchased on the second day of class at our store and at Follett. If used books were available, they were purchased. If not, new books were purchased. You can see the excessive amount of money students are actually paying and why 84 percent of them think that they can save money if the NCard would be allowed to be used at our store. It is because they can save money. We've tried to keep this testimony short, but we do have a number of people here that are supporting us. And at this time I'd like everyone in support of our bill to please, if that's fine with you...

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SENATOR RAIKES: Can't do that, can't do that.

BARRY MAJOR: ...okay, I'm sorry.

SENATOR RAIKES: But we see all the...

BARRY MAJOR: I'm sorry, okay.

SENATOR RAIKES: Okay.

BARRY MAJOR: Well, we do have a number of people here that are in support of our bill. And we would appreciate any support you'd give us on this bill. I'd take any questions you have at this time.

SENATOR RAIKES: Okay, thank you very much, Barry. Questions? Senator Byars.

SENATOR BYARS: Thank you for being here, appreciate it very much and appreciate your business and what you bring to the state of Nebraska. In a piece that I had in support of LB 556, it was stated that on-campus stores typically stock approximately 30 percent used textbooks. Does that happen in the stores, your stores that are on campus?

BARRY MAJOR: We are primarily off campus around the country, but we do have a few, approximately 20 of our stores that are on campus. And in our stores we try to maintain even on campus 50 percent used. So we are kind of an anomaly. But most of our stores are off campus.

SENATOR BYARS: So maybe it's not typically.

BARRY MAJOR: Pardon me.

SENATOR BYARS: So maybe that's not typical.

BARRY MAJOR: Well, typically they're talking about primarily the...there's about 1,100 stores that are leased out like Follett around the country and they're talking about those stores in general.

SENATOR BYARS: How do you get those numbers?

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BARRY MAJOR: They are generated by our association, the industry association that takes polls about everything, financial data and you can imagine.

SENATOR BYARS: Okay, but we really...okay, but we don't have empirical evidence that there is 30 percent at the university store versus 50 percent at your store?

BARRY MAJOR: No. We have, well, I'll tell you what we do have. At the end of the first week of class, we took the class title of every used book that we still had in stock, there were 1,100 of them. We took that list and we walked over to the bookstore on campus, 62 percent of those books on that list they did not have a used textbook for. That is factual data on the number of used textbooks that they don't have available to students that are looking for them.

SENATOR BYARS: But it's your survey using your people doing the survey.

BARRY MAJOR: Absolutely, absolutely.

SENATOR BYARS: Okay, thank you very much.

SENATOR RAIKES: Other questions? I'm curious. From your standpoint, is it more profitable generally to sell a new book or a used book?

BARRY MAJOR: Well, there is a greater margin in a used textbook. So even though your revenue is lower, your margin is going to be equal.

SENATOR RAIKES: So there's an incentive to, in that sense, there's an incentive to make a market in used textbooks.

BARRY MAJOR: Well, there is in our case. In the university's case, there's an incentive to sell new books because the higher the revenue, if you sold all new textbooks, your revenue is going to be higher and Follett's commission is based off the revenue number.

SENATOR RAIKES: So the suspicion implied, and say I'm wrong if I am, is that the university would encourage their bookstore, Follett I guess, not to have used textbooks available because if that happens the university gets less

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money?

BARRY MAJOR: Yeah, I'm not going to implicate the university in that way. All I'm saying is there's a lot of pressure on universities to raise more money and they're looking at a lot of different ways to do that. The contracts that are being let for universities that are not nearly as prestigious as this university are much higher than what Follett pays now. So that's our point is, you know, this...what we're asking for will absolutely in our opinion not hurt the university. Because when this contract is let in two years from now, if the market is the same as it is right now, I would think someone would pay, Follett or Barnes and Noble, will pay the university more than 11.5 percent because they just paid a small community college in Texas 13.5 percent.

SENATOR RAIKES: Okay. One other question, this proposal may involve the university basically being a credit source for student purchases, in the extreme, all over town.

BARRY MAJOR: Well...

SENATOR RAIKES: If you say books and supplies, a supply could be most anything.

BARRY MAJOR: Could be virtually, yeah, a lot of things, right.

SENATOR RAIKES: Yeah. So I'm just...this just crosses my mind maybe errantly, could they in fact be accused of being a competitor with credit card companies by doing something like that?

BARRY MAJOR: Well, they brought up that concern. And our response to that during these last six years when we've been trying to work this out has been, if you want to just narrow it down to just books, just textbooks that have a very specific identification to them, we'd be willing to do that so that you could take the pencils and pens out of it if you choose. The students probably wouldn't like that, but we would be willing to do that. And my view is if the university is willing to allow a pizza parlor to receive payment for a piece of pizza, they surely would allow a student to charge a textbook where they can save 25 percent.

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SENATOR RAIKES: Okay. I see no other questions, thank you for being here. Are there other proponents to LB 556? If not, we'll move to opponents, LB 556. Welcome.

CHRISTINE JACKSON: (Exhibit 8) Good afternoon. Mr. Chairman, members of the Education Committee, my name is Christine Jackson. I am the vice chancellor of business and finance at the University of Nebraska-Lincoln. The NCard is the campus identification card, looks like this. The card can be used for purchases of goods and services on and off campus. By presenting the NCard on campus, a student can charge for purchases from the library, the copy center, the computer shop, convenience stores, vending machines, food vendors, the athletic department, and the University Bookstore. The university has permitted the acceptance of the NCard at the University Bookstore for the last 18 years. When used for on-campus purposes, students are billed at the end of each month on their student account. Full payment is due 20 days later. In 2003, Nebraska Bookstore requested that the university extend the NCard program to off-campus vendors. In response, UNL issued an RFP in 2004 to partner with a financial institution who could offer the NCard program to off-campus vendors by utilizing a well-established and secure banking merchant network, i.e., Visa. Following the RFP, UNL partnered with Wells Fargo Bank. Under the Wells Fargo contract, students can use their NCard for off-campus purchases by opening a Wells Fargo account and depositing funds into this account. The NCard then functions like a debit card with off-campus purchases being deducted from their Wells Fargo account. In the first year of its operation, 7,000 students, faculty, and staff have taken advantage of this program. Approximately 100 colleges and universities are partnered with financial institutions to offer debit card programs for off-campus purchases like UNL's program. Prior to 1998, UNL managed its own bookstore. Because we wanted to improve our bookstore operation, control the cost of textbooks, increase the access to used textbooks, and thereby reduce textbook costs for UNL students, UNL issued an RFP to outsource the management of our bookstore. The RFP required that the successful vendor operate UNL's bookstore in its current locations in both of our student unions; required that the vendors identify the maximum markups on used and new textbooks; and provided the vendor access to the

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university's NCard billing system. Four bids were received, including one from Nebraska Bookstore. UNL awarded the bookstore contract to Follett because its contract was the most favorable to UNL students. Under the contract, markups of new and used textbooks were minimized. Students gained access to Follett's national warehouse of used textbooks, and proceeds from the contract were used to fund student programs, to operate a textbook reservation system, to fund the NCard program, and to renovate the Nebraska Union, thus offsetting potential increases in student fees. And while UNL contracted with Follett to manage the University Bookstore, it should be noted that UNL continues to promote competition by providing Nebraska Bookstore and other bookstore vendors with a list of textbooks that will be used on our campus each semester. We also provide UNL names of students and their addresses to bookstore competitors upon request. It has been suggested that by providing the NCard to off-campus bookstores that UNL students will have access to a larger textbook market. The students have access to this market now. Students may purchase used textbooks from UNL's bookstore, Nebraska Bookstore, and over 4 million web sites for used textbooks. The NCard does not add or delete from this capability. Rather, the NCard is only a payment method, not a source of new textbooks. In conclusion, the NCard has two options. A student can purchase goods and services on UNL's campus and be billed monthly via a student bill or a student can purchase goods and services from off-campus vendors using a debit card option available through Wells Fargo Bank. The University of Nebraska is opposed to LB 556. Thank you.

SENATOR RAIKES: Okay, thank you, Christine. Questions?
Senator Byars.

SENATOR BYARS: Thank you, Senator Raikes. Thank you, Ms. Jackson, appreciate your being here. We've been hearing in testimony of the proponents and your testimony dealing with the issue of the university putting a local business at a competitive disadvantage by not allowing the NCard to be used off campus. And in addition to that, the Nebraska Bookstore administration has talked about paying the cost of access to your system that they're willing to do that. What do you have to lose? Do you want to talk about that a little bit?

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CHRISTINE JACKSON: The university believes that in 1998 the university issued an RFP. And when the RFP was...when bids were received, all vendors would have put their best bid forward. The university then agreed to outsource the management of its contract to Follett. As part of that contract and having gained access to the NCard system as part of that RFP, the university believes that it got the best bid on the table. From our estimates, the university received \$3.5 million more as part of the contract with Follett than it would have with any of the other three vendors. Therefore, the university believes it's entered into a contractual agreement with Follett. It expires in 2008. And the university has a contractual obligation to Follett to stand by the contract that it honored giving them access to the NCard.

SENATOR BYARS: Okay, so in your mind the contract does mean something.

CHRISTINE JACKSON: Absolutely.

SENATOR BYARS: Okay, thank you very much.

SENATOR RAIKES: Other questions? You mention in your testimony UNL has permitted the acceptance of the NCard at the University Bookstore for the past 18 years. Does that mean there's been credit...

CHRISTINE JACKSON: Yes. Yes, yes. The university has had the NCard program available with the University Bookstore and the other vendors noted in my testimonies since 1986.

SENATOR RAIKES: So really the significant difference in '98 was bringing in an outside contractor.

CHRISTINE JACKSON: Yes, yes.

SENATOR RAIKES: Would you respond to the suspicion that it's in the university's best interest to encourage new book sales because the total revenue is higher as compared to used book sales?

CHRISTINE JACKSON: I surely will. Under the RFP and the contract that the university has with Follett, the university worked with...made sure that we received the

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smallest markup on both used and new textbooks. We work with Follett to ensure that we maximize the number of used books that are available through Folletts. As part of this process, we contact our faculty every semester, encouraging them to identify the books that they are going to use in the following semester. That's important for our students because then they can maximize the amount of money that they can sell their books back to the bookstore. We...also as students go through the textbook reservation system on our campus, we ask students to identify whether or not they would prefer used or new textbooks. It is important for us to know that ahead of time so that we can access the national bookstore warehouse that Follett operates in Chicago so that we can make sure that we try to meet every need for used books that we can. And we do that in early March when students start identifying what courses they will be enrolled in at UNL next year and the books that they will need.

SENATOR RAIKES: Okay. Any other questions? Senator Howard.

SENATOR HOWARD: Actually I have two. Did you say their headquarters or their warehouse, I think you used the word warehouse, is in Chicago?

CHRISTINE JACKSON: Yes.

SENATOR HOWARD: Is that where they're centrally located is in Chicago?

CHRISTINE JACKSON: Yes, yes, yes.

SENATOR HOWARD: Okay. And then my second question is a person that testified earlier mentioned Starbucks, they could use their card at Starbucks on campus. Is it an actual Starbucks location that's located on campus?

CHRISTINE JACKSON: Yes, there is, inside of our Nebraska Union on the city campus.

SENATOR HOWARD: Thank you. Times certainly change.
(Laugh)

SENATOR RAIKES: Seeing no other questions, thank you,

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Christine.

CHRISTINE JACKSON: Thank you.

SENATOR RAIKES: Next opponent to LB 556.

CRAIG MUNIER: (Exhibit 9) Good afternoon, Mr. Chairman, members of the Education Committee. My name is Craig Munier, M-u-n-i-e-r, and I am the director of the office of scholarships and financial aid at the University of Nebraska-Lincoln. I'm here today to note that the University of Nebraska has two significant concerns with LB 556, specifically as it relates to financial aid. First, the bill is fundamentally flawed and in direct conflict with federal regulations governing federal financial aid. LB 556 would require the University of Nebraska to credit federal financial aid to third-party bookstore charges. However, comprehensive federal student assistance regulations regarding the Higher Education Act programs states that an institution may only apply federal financial aid to charges incurred by the student at the institution. Again, we consider a third party has no contractual relationship with the university. Policy staff at the U.S. Department of Education confirmed for me last week that we may apply federal financial aid to bookstore charges only if the university has a contractual agreement with a third party to operate the university's bookstore. When I described LB 556 to this policy person, he stated that simply requiring the university to collect at third-party bookstores accounts receivables would not constitute "charges incurred at the institution." And consequently, the university would be prohibited from applying federal financial aid to third-party bookstore charges. Our primary concern is about students. While I was employed at the University of Illinois at Urbana-Champaign, the Illinois General Assembly passed a law similar to LB 556. The University of Illinois responded by discontinuing the practice of allowing students to defer payment on textbook purchases through the use of their student ID. While an inconvenience for thousands of students, this law also unintentionally created a significant financial barrier to students from low-income families who, for a variety of reasons, did not have access to their financial aid at the beginning of the semester. One reason for such a delay is applying for financial aid late. Not having the ability to defer payment on their

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textbooks put students from low-income families at risk academically and at a competitive disadvantage with their peers who could afford to buy their textbooks outright. We are concerned that LB 556 will create yet another hurdle for students from Nebraska's lowest income families in accessing college. Thank you for affording me the opportunity to speak, and I'm available for questions.

SENATOR RAIKES: Thank you, Craig. Senator Schrock.

SENATOR SCHROCK: I stepped out a little bit so I may have missed this, but help me out here. Does anybody use cash anymore? (Laughter)

CRAIG MUNIER: I'm sure someone does.

SENATOR SCHROCK: So I assume you can buy books at the University Bookstore with cash.

CRAIG MUNIER: That's correct.

SENATOR SCHROCK: Can you use Visa and MasterCard and that type of payment?

CRAIG MUNIER: I don't know. People are telling me yes.

SENATOR SCHROCK: And I assume...but is that practiced very much? I should have asked these questions earlier.

CRAIG MUNIER: I don't know the ratios.

SENATOR SCHROCK: So if they use the NCard, you get a percentage cut. You get a percentage cut regardless of how they pay for it, is that correct?

CRAIG MUNIER: I'd probably defer that question to the chancellor when he is going to be up last. I don't really...when a student uses their NCard, their charges for their books appear on their consolidated bill along with all of the direct charges assessed by the University of Nebraska. And that financial aid then is applied to the consolidated bill and it pays whatever charge is on the bill.

SENATOR SCHROCK: But you in essence get a commission when

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they use their NCard.

CRAIG MUNIER: The university...not from the use of the...I guess my understanding is Follett pays the university a handling fee for us processing accounts receivables.

SENATOR SCHROCK: Regardless of what method of payment.

CRAIG MUNIER: No, just for use of the NCard. In addition, I understand that Folletts pays the university a premium for the right to run our bookstore, which is separate from the NCard issue.

SENATOR SCHROCK: So if they pay cash, you don't get as much benefit or if they pay for it with a credit card.

CRAIG MUNIER: I'm not the best person to ask that question, Senator. I'm sorry.

SENATOR SCHROCK: I should have been asking it earlier so.

CRAIG MUNIER: I'm sorry.

SENATOR SCHROCK: I'm just curious.

SENATOR RAIKES: Any other questions? Thank you, Craig.

CRAIG MUNIER: Thank you.

SENATOR RAIKES: Next opponent, LB 556.

OMAID ZABIH: (Exhibit 10) Thank you, Commission, speak on this today. My name is Omaid Zabih, that's O-m-a-i-d and my last name is Z-a-b-i-h. I apologize for my parents naming me that name. (Laughter) I am currently the second vice president of ASUN which is the Association of Students at the University of Nebraska. And I am also the new president elect/student regent for the next year. ASUN has allowed for both the University and Nebraska Bookstore to state their case in front of the Senate body in the last few weeks. After listening to both sides, we made an important decision--serving as a voice for the student body we have decided to oppose LB 556 for a number of reasons. The university cannot simply afford to be a bill collector and would subsequently have to abandon the NCard's current

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function. We do not deem this as a threat to entice students to support the university; we understand their position. We feel that without the current functionality of the NCard students would be losing a unique and advantageous tool that makes finances much easier to deal with in an already hectic atmosphere that students live in. In order to understand this, students would no longer be able to charge money in order to receive textbooks, supplies, food, health services, medicine, parking passes, athletic tickets, and other expenses. Many students depend on their financial aid refund checks in order to pay for these things. If this bill passes, they will have to wait longer in order to receive the essential materials that they need. Another reason is that Follett allocates 10 cents for every dollar made back to the university that directly helps fund many student programs such as Big Red Welcome, scholarships, homecoming week, student elections, diversity programming, and outdoor recreation facilities. As you can tell from this list, these are major student programs that have an effect on every student. In fact, \$13.7 million will have been gained in ten years. All these go toward student programs. ASUN doubts that the Nebraska Bookstore nor any other book company would be willing to pay for this amount. Without this money, the student fees would undoubtedly be higher in an era when students are already paying an enormous amount for higher education. ASUN also recognizes the fact that students can buy textbooks from any other vendor, whether it be on-line or in the local area. The University Bookstore does not force students to buy textbooks from their store. Students are smart enough to realize that they can receive textbooks not just at the University Bookstore, but also from other places. Overall, ASUN feels that students will be adversely affected by this bill. Although it is stated in our government bill that was passed in the Student Senate that we support a competitive environment in order to lower prices, this is not the avenue in which to travel. We see much lost and nothing gained by the passing of this bill. The University Bookstore does not encourage students to buy new books as well. In efforts to talk about the Nebraska Bookstore's used book poll during the first week of classes, many students reserve books in the winter semester or in the fall semester before their new semester. And they also reserve books, many of them which are used, so by the time the Nebraska Bookstore would go into the bookstore to look at used books, many of those

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would be gone because students have already reserved those books. So essentially their polling is I think irrelevant because students have already gotten the option to get their used books. So thank you for your time and I'll happily answer any questions.

SENATOR RAIKES: Thank you. Senator Byars.

SENATOR BYARS: I just want to tell you I think your parents were very bright (inaudible) as most of us are very bright, and I want you to be mindful of that. Thank you. Like the other young men who testified, we appreciate very much your involvement in student government and thank you for being willing to come forward today.

OMAID ZABIH: Thank you.

SENATOR RAIKES: Thank you again.

OMAID ZABIH: All right, thanks.

SENATOR RAIKES: Next opponent, LB 556.

TODD WEST: (Exhibit 11) Good afternoon, Senators. My name is Todd West, and I'm a senior political science major at the university. And today I'm here to speak on the negative implications of LB 556 from a student's perspective. First, I want to explain how the current system for book purchasing is already meeting student needs. Then I want to discuss how the changes to the NCard will harm students, and finally consider how self-interested business proposals such as LB 556 undermine the mission of educational institutions, specifically at Nebraska-Lincoln. Proponents of LB 556 insist that financially needy students do not have sufficient access to used textbooks. They claim that a change to the NCard would remedy high prices and other problems caused by a lack of competition. Their claims are false. You know, it seems that a problem exists for a few struggling Lincoln businesses, not UNL students. As a student fully reliant on loans and financial aid, I never felt the strains LB 556 indicates students feel. For eight semesters I had sufficient access to my course books, new and used alike. Every time I used loan money at the University Bookstore in the Union. I believe that books there are priced reasonably, given the scores of popular

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on-line textbook services that keep books cost competitive. The Follett company has many competitors across the nation to compete with. Granting NCard access to a few local businesses would not result in a dramatic cost reduction for students considering the affordable market that already exists. Additionally, the federal Higher Education Act states that students are prohibited from directly applying their loan payment to nonuniversity affiliates. The Nebraska Bookstore, for example, would not better serve underprivileged students with the NCard modification. As a student from the LB 556 target group, I believe that it will not accomplish what it claims that it will. Now that I've provided personal testimony that students like me are not suffering in a world without LB 556, I want to discuss how this bill violates the purpose of the university NCard. An NCard is an instrument of the university, not other agents in the community. The card is part of a billing relationship students and parents have with UNL. In the deferred payment system, the university controls a student's ability to register for class as collateral for later payment. LB 556 wants to tack on a credit feature for other businesses and force the university to assume responsibility for student bill collection. In return, these businesses offer no collateral of their own. This forecasts extra spending, hiring, and work for the university administration. It is foolish to make an academic institution take responsibility for collecting bill payments from other local businesses. If this is a feature that is desired, businesses could establish a student credit line of their own. Younkers has been doing it successfully for years, independent of UNL. It's easy to see that extending the NCard's function as a student credit card into the community is a poor idea, especially since college kids are notorious for irresponsible spending. But let's finally check out what the hidden motives are behind LB 556 and how they violate the sanctity of an educational institution. The argument for competitive markets is substantial, but LB 556 proponents, specifically the Nebraska Bookstore, neglect the fact that currently we are in the wake of a decision to outsource union bookstore operations to competitive businesses. Follett gave the most competitive bid and received NCard privileges. The Nebraska Bookstore was outbid, partly because they did not want to relocate into the Union. Our NCard comes with the territory. The Nebraska Bookstore is fronting LB 556 to the Legislature in

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order to gain credit card status on the NCard. But we are an academic institution. It is not a university's responsibility to take any business under its wing to boost their profit at the expense of the student body. Our business is education. From a student's perspective, I view this bill as yet another nuisance from a company that offers our students free beer in exchange for books, hires women to appear in bikinis in front of their store to attract business. University of Nebraska students are not theirs to exploit. We provide ample opportunities for businesses like the Nebraska Bookstore to access student information, class schedules, and so on. Now it seems that certain parties are scrapping to get their share of student money at the faculty's, students' and administration's expense. To quote what Mark said earlier, it would make it more inconvenient for students. The students' interest is not at the heart of LB 556. Thank you.

SENATOR RAIKES: College students are notorious for irresponsible spending? I thought that was just mine. (Laughter)

TODD WEST: So I've heard, so I've heard.

SENATOR RAIKES: Questions for Todd. Sounds like there's a lot of excitement going on over there. I guess I didn't see any. Well, thank you very much for your testimony, Todd.

TODD WEST: Thank you, thank you.

SENATOR RAIKES: Mr. Chancellor.

HARVEY PERLMAN: (Exhibit 12) Mr. Chairman, how are you? I've got copies of my testimony. And given how long this has gone, I probably won't repeat it. Mr. Chairman, members of the Education Committee, I'm Harvey Perlman, P-e-r-l-m-a-n, Chancellor of the University of Nebraska-Lincoln. I'm opposed to LB 556. I have my written testimony, and I won't read through it. It's always a benefit to be a chancellor of a university with students like the last two that just testified because they've hit all the high points and I needn't repeat it. I would also say it's awkward for me to be in this position because while I like to be supportive of businesses that are located in Nebraska, that's certainly a part of the university's

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mission, and normally I would consider this bill merely an opportunity to talk about business practices of the university. I am less temperate than I might otherwise be because I think they have, in their efforts to support LB 556, conducted a campaign that has sought to smear the university by suggesting either that we don't care about the costs associated with books that our students are required to buy or more implicitly that we're encouraging students to buy the most expensive books so that we make more money. And I would just address some of those possibilities. We've tried as we could to create alternative sources of revenue, given the lack of resources Nebraska has had to fund its state university. We think these contracts, one with Follett to outsource the bookstore; one with Wells Fargo to create a debit card on the NCard are useful and have contributed significantly to the resources we've had for student services and for the enhancement of academic programs. We do that in a competitive environment. We issue RFPs. Everybody gets to compete. Nebraska Bookstore had an opportunity to compete for the outsource bookstore in the unions. They chose to submit a bid that would have monopolized book purchases at their location. We went with another bidder because they gave us more money and because they committed themselves to margins on new and used books that were below the average that students pay across the country and were equal to those that Nebraska Bookstore agreed to do in its bid. I am in some ways amused at this claim that somehow we've cost students \$500,000 in our efforts to do this given the evidence that you've had submitted to you so far. As our students suggest, if you do a survey of bookshelves after classes have started at bookstores, you would expect the bookstores selling the most books to have the fewest left on the shelf. So to say that they've got more books and our bookstore doesn't have any used books after classes have started is a survey that I think lacks credibility. Their comparison shopping over here, Mr. B's versus Super Saver, was done two weeks after classes started as I understood and they used only new books when used books weren't available. Well, if you go over there and look at the piles, most of the ones from our bookstore are new books and, of course, they would cost more. But the fact of the matter is that the used books have already been sold. Follett is one of the largest providers and suppliers of campus textbooks in the country and we have access to their used book network. It was one

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of the reasons we wanted to outsource our bookstore because when we were an independent, the only used books we had were ones that we either got by buying back from students or would access wholesale markets like the Nebraska Book Company to get them. So I just don't see that there's evidence there. All of their evidence assumes that you can't buy used books at the University Bookstore, and that's not true. We sell more used books to our students than the new books and used books that they sell combined. So, Senators, as the orange light blinks, I would just say there's been some conversation about what we would have to do if LB 556 passes. We have an exclusive contractual relationship with Wells Fargo that they are the only ones that can use the NCard for debit card and credit card purposes off campus. If LB 556 is adopted, we would have to abandon the NCard on campus because we could not allow it to be used off campus under the Wells Fargo agreement. What this amounts to, what this effort is, is we put out an RFP; Nebraska Bookstore bid; they didn't get the bid; and now they're trying to upset that process by legislation. And I hope that you will not move LB 556 forward. I'd be happy to answer any questions you might have.

SENATOR RAIKES: Thank you, Chancellor. Questions? Senator Byars and then Senator McDonald.

SENATOR BYARS: Well, I want to compliment you, Chancellor, on the brightness of all these students that have been here today.

HARVEY PERLMAN: I take full responsibility for that.
(Laugh)

SENATOR BYARS: I knew that you would. I somehow knew that you would accept the credit for that. In a brochure that was sent out and that we received in our household, Nebraska Bookstore claimed that other Big 12 schools let their student ID card be used off campus. Will you talk about that a little bit, please.

HARVEY PERLMAN: Well, we surveyed every Big 12 school, in addition to a lot of other schools across the country, and there is no other Big 12 school that we know about or any other school that we know about that has an NCard feature like ours, which is a deferred payment card internal to the

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campus. Now the other Big 12 schools have debit cards like we have, and they're usable off campus like ours.

SENATOR BYARS: Okay, I appreciate that. That cleared something up for me. Thank you.

SENATOR RAIKES: Senator McDonald.

SENATOR McDONALD: And this is in the testimony from Christine Jackson, she mentions that there are 4 million web sites for used textbooks. Do you feel that this is the wave of the future for used textbooks? Are more and more students utilizing web access rather than utilizing other brick and mortar locations?

HARVEY PERLMAN: Yeah, Senator, I think there's no question about that. We know in our own personal experiences. I mean I use those more for book purchases and it would be likely that our students would. And it raises the question about competition in this market generally. I mean I have no doubt that the figures that they have provided to you show a decline. The University Bookstore has a very competitive environment as well because you now have Internet sources, you have a wide variety of ways. More and more professors are doing their own books by using Internet sources and other kinds of devices so that there are no textbooks in the market. So this is an extraordinarily competitive market. And in the material that I distributed from their SEC...the Nebraska Book Company's SEC filings in 2004, they recognized that there are a wide variety of factors in the marketplace that are real threats to a freestanding bookstore and I think that's true. But to think that our little NCard is having a major competitive effect on their business I think lacks credibility.

SENATOR McDONALD: And I spoke to someone that did purchase their books on the Internet, on an Internet site, could do so, delivery the next day and no postage. And so they're trying to entice people in shopping on the Internet.

HARVEY PERLMAN: Right. Well, and I think we also ought to consider...I mean I have a daughter that's in law school still, too, and she manages to have her credit card bills sent home to me just like the consolidated university statement. And the fact of the matter is that if you pay a

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credit card within 30 days it turns into a deferred payment card exactly like the NCard. So there are many, many options for students both in terms of getting competitive prices for their books and also in terms of payment mechanisms that allow them to work through their cash flow issues, which I have no doubt they have.

SENATOR McDONALD: I remember when my kids were in college, bottom line was I still got the bill.

HARVEY PERLMAN: I think that's one of the constants.

SENATOR RAIKES: Senator Schrock.

SENATOR SCHROCK: I'm still in the clouds over here. Help me out. Is the state getting the sales tax on these books that are being sold? We want our fair share, too, you know.

HARVEY PERLMAN: Well, probably not on the Internet, books on the Internet, but.

SENATOR RAIKES: Except for the ones you buy on the Internet and I'm sure you submit a...

HARVEY PERLMAN: I always file the use tax...

SENATOR RAIKES: ...consumer's use tax, yes.

HARVEY PERLMAN: ...I file the consumer's use tax.
(Laughter)

SENATOR SCHROCK: So there is sales tax on these books then, too, whether they buy it from you or a different source unless it's the Internet.

HARVEY PERLMAN: Yes.

SENATOR SCHROCK: And they're supposed to pay it if they buy it by Internet but they probably don't. Would we agree with that?

HARVEY PERLMAN: That's correct.

SENATOR SCHROCK: All right.

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SENATOR RAIKES: Senator Byars.

SENATOR BYARS: I just want to know for the record that my boys who have attended the University of Nebraska and the last one will graduate in May and then go to law school hopefully, he's been accepted as a matter of fact, never sent a bill home to me. And the second liar doesn't have a chance, but I just wanted to let you...

SENATOR RAIKES: I see, I see. I was waiting for the other shoe to drop there and it did. Okay. Any other questions? I see none and thank you very much for being here, Chancellor.

HARVEY PERLMAN: Always my pleasure, thank you.

SENATOR RAIKES: Do we have any other opponents to LB 556? Do we have any neutral testimony, LB 556? Senator Beutler to close.

SENATOR BEUTLER: Senator Raikes, members of the committee, it's been a very good discussion I think. I've learned a lot of new things. I'm sure we've all learned a lot of new things. And I'm sure you've gotten the best of the arguments on both sides. To me, though, when you sort everything out and, by the way, before I say this let me also say that neither I nor I think any proponents of this bill would give anything but the best of motivations to the university. There have been difficulties in the negotiation. I think not all the people involved have gotten along very well. But I think everybody would acknowledge that the university from its perspective is looking out for the best interests of the student and the university. And the question is in the context of doing that what is fair to other businesses and what is in the...really in the best interest of students? And in terms of what has been perceived generally as fair to other businesses in this type of situation I refer you back to the chart that I passed out when I introduced the bill. Generally speaking across the nation, it has been decided by the parties on the universities' sides and on the private business side that a university identification card such as the NCard should be used as a debit vehicle. The advantage, the additional advantage that's given by using it as a credit or a delayed payment vehicle gives a further distinct

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advantage to the on-campus user. And that advantage is a further inducement to students to buy books at that location. And if that location, and the facts I think are still on the side of Nebraska Bookstore, if the books on that on-campus location tend to be by and large more new books than used books, you are then in effect inducing students to buy more new books. And that I would submit is not to the advantage of the student. So I think there are some valid arguments on why, both in terms of fairness to local businesses and in fairness to students, something other than what exists now would be the proper solution to the problem. The university says that it's hard to imagine that this has a major competitive effect, that that's not credible. But do you imagine that these businesspeople who have watched this situation for several years going don't know what's happening to them? Of course they know. And they're not going to raise the debate to the level of this...to this level if they didn't honestly think and know, I think, that what was causing their problem was the use of the NCard as a credit instrument. So I hope you'll give serious consideration to the bill. I hope you'll encourage all the parties to get back together and to work on this some more to the mutual advantage of students and the companies, local businesses, and the university itself. Thank you.

SENATOR RAIKES: Thank you, Senator. Questions? I see none. Thank you and thank you all for participating in the hearing. That will close our hearing on LB 556 and we'll move to LB 138.

SENATOR SCHROCK: I thought they were all here for LB 138.

SENATOR RAIKES: Yeah, I did too.

SENATOR BYARS: Zero raised their hands for you, just wanted to let you know that.

SENATOR RAIKES: But it's a really popular bill.

HARVEY PERLMAN: I was going to bring 21,000 students, but they're all at St. Padre Island. (Laughter)

SENATOR SCHROCK: All the poor ones.

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LB 138

SENATOR STUHR: And charging it to their parents.

HARVEY PERLMAN: Except for two or three.

SENATOR BYARS: They're leaving tomorrow.

SENATOR SCHROCK: Shall we start or do you want to wait till?

SENATOR RAIKES: Yeah, let's go ahead. Senator.

LB 138

SENATOR SCHROCK: Honorable Senator Raikes, Chairman, and members of the Education Committee, ah, there's too much competition. Let's just...

SENATOR RAIKES: I would drop the hammer but...

SENATOR SCHROCK: It wouldn't do any good. They don't, just give them a second.

SENATOR RAIKES: It sure made a difference in attendance though. Okay, Senator.

SENATOR SCHROCK: For the record, my name is Ed Schrock. I serve the 38th Legislative District. That's spelled S-c-h-r-o-c-k. This is an issue that I thought should be brought in front of the committee and revisited again. When the original College Savings Plan was put into law, this was a part of the bill, but it was stricken because of financial concerns. Those concerns are still here because who knows how much money this might cost the state? But I can tell you, when the bill was introduced, Minnesota was doing this and I assume they still are. With the concerns about the enrollment in our universities and colleges in this state, and students going out of state when we'd like to keep them in state, and the special people investing in the College Savings Plan, this would say, if the money has been in the plan for four years and they withdraw it for educational purposes in the state of Nebraska, that the state would match that at 5 percent. Strictly an incentive to try and keep students to stay in Nebraska, make it more affordable. There's always the issue of, well, only the wealthy people

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are going to invest in a college savings plan so you're going to benefit them. But I would say that, maybe those are the ones we are trying to keep in Nebraska. The low-income we want here too. But we do have scholarship programs for them. So this would say, if you've had an account for four years and you withdraw it to go to a higher institution in the state of Nebraska, the state would match it 5 percent. I don't think it's very easy to get a financial statement on that, an A bill, because we don't know where that is. You'll have to determine whether it's useful or not. There are some notes here also. It's not clear where the Nebraska institution...we haven't defined the Nebraska institution of higher learning. If you're interested in this bill, we could do that as a committee. Right now, we have a problem with the declining enrollment at the university, and not so much with the community colleges. Maybe it's something that should be reserved just for the university and the state colleges, not community colleges, because they're more affordable to start with. I don't know if that's the case or not. Private universities and colleges, should it be used for that too or not? I don't know. I think it should be probably, but that causes other concerns. The point of the matter is we do have a considerable number of students going to other states to go to college. I'd like to keep them here. This is a small incentive to keep them here, trying to make higher education more affordable. And I see we have, for '05 and '06 we have cash funds of \$75,000, zero to \$75,000 so. And that's going to grow if we, if this program would grow. But it's an issue I thought that we should revisit, and I'd be willing to work with the committee in any way they would want to do this. If there isn't funds available for it, I don't know. But what is it worth to keep our kids here in Nebraska? And if you have any better ideas on how we can incent students to stay in Nebraska, please let me know because I'd like to be on board. This is my attempt on trying to keep students here in the state of Nebraska. And if they stay here, then let's provide some matching funds. The College Savings Plan, I guess, has been a good success. It was modified from the way it was, from the way it was introduced until it got up to the floor on General File, but that's all right. You did, the committee did a good job at that time. I don't know, how many of you were on the committee when that took place? Senator Stuhr and Senator Raikes were the only two. So it is a good time to revisit this issue. As near as I

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know, Minnesota's still doing that to try and keep their students in Minnesota. I think it's only fair we should try that in Nebraska. Questions?

SENATOR RAIKES: Thank you, Senator. Senator McDonald has one.

SENATOR McDONALD: Having sold the Nebraska College Savings Plan, there are a variety of people that do invest in it, parents and mostly grandparents I'm seeing purchasing that. And because the minimum amount that needs to be invested is \$25, it's very small which allows a lot of people to do it, to invest. And that's just a minimum per year. I think this is a great idea. And we're, because we're having people from out of state invest in the College Savings Plan because it was, at that point in time, the number one College Savings Fund. Do you know if it still is?

SENATOR SCHROCK: I don't know that. I hear from time to time. If it's not, it certainly ranks up there with the best.

SENATOR McDONALD: And the one that you're saying that has, that gives the 5 percent, you said that was Minnesota?

SENATOR SCHROCK: Minnesota was doing it at the time. I assume they still are. I didn't double-check on that.

SENATOR McDONALD: And are they in one of the top plans? Because I know a lot of them were mirrored after Nebraska.

SENATOR SCHROCK: They were ahead of us as far as, they were enacted before we were enacted, so.

SENATOR McDONALD: Right, but as far as rating. Are, were they, are they rated up with us?

SENATOR SCHROCK: I can't answer that.

SENATOR McDONALD: Okay. I truly agree with this. I think this is a good idea, but I don't know that I can limit the institutions to just the university. I mean, we're talking about keeping...

SENATOR SCHROCK: It, yeah, if you want...

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SENATOR McDONALD: ...them in Nebraska. I would like to see all institutions.

SENATOR SCHROCK: I think that's something...

SENATOR McDONALD: And four years is great.

SENATOR SCHROCK: You know, we have institutions of higher learning here for people who go to, I don't know how I'm saying this right, beautician school, that type of thing. I mean, where do you want to draw the line? Tammy is looking funny at me, so, you know, I don't know where you draw the line.

SENATOR RAIKES: Senator Stuhr.

SENATOR STUHR: Yes, does it apply to private? Can they apply at private?

SENATOR SCHROCK: As it is drafted, but I think the committee needs to review that. And I would like to keep it applied to privates also, but there may be others that disagree.

SENATOR STUHR: Um-hum. Okay.

SENATOR SCHROCK: But that would be my wish, that it would, certainly the major universities and private colleges. And we could sort that out. I didn't put a lot of time into this. But at the time we passed the College Savings Plan, this portion of it was stricken in committee. Now, would you agree with that, Senator Raikes?

SENATOR RAIKES: I don't remember that well, but I would take your word for it. It sounds, yeah.

SENATOR SCHROCK: Yeah, and it was. It was part of the original one but they were concerned about the cost of this, so this portion was stricken in committee.

SENATOR RAIKES: How many students now attending Nebraska's institutions, higher education institutions, are using money benefits from the Educational Savings Plan, do you have any idea?

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SENATOR SCHROCK: You know, the savings plan came around, and I mostly don't remember this, but Dave Heineman made a big issue of this and how wonderful a program it was. He came to Holdrege, Nebraska, to announce the first investor to the College Savings Plan. It was my, and I was the one. And at that time, I had four grandchildren. Well, the fifth one is here and he is four years old, so it was about five years ago this plan was passed and implemented. And so, you know, there hasn't been enough time. I'm sure there hasn't been a lot of withdrawals yet. Most of it's been putting money into it. And, you know, I assume the College Savings Plan people are here. If they're not, why I'd be surprised. But I didn't ask them to come so if they're not here then this is just one of Schrock's crazy ideas that maybe doesn't hold a lot of water. I shouldn't mention water either because that's a controversial subject. But I would think there would be people here to answer that question, but maybe everybody left.

SENATOR RAIKES: Okay, we'll see. Thank you, Ed. Are there proponents, LB 138? Yes, Tip.

THOMAS O'NEILL: Senator Raikes, members of the committee, I'm Tip O'Neill. I represent the private colleges and universities in Nebraska. We are here to support LB 138 as it's drafted. We believe in incentives to get students to come to our institutions, as well as those in the public sector here in Nebraska. I'd be happy to answer any questions you might have.

SENATOR RAIKES: I assume that you would have a particular lean as to whether it pertained to only public institutions.

TIP O'NEILL: Yes, I would have a particular lean on that one issue, Senator.

SENATOR RAIKES: Okay. Any questions for Tip? Thank you, Tip.

TIP O'NEILL: Thank you.

SENATOR RAIKES: Other proponents, LB 138. Are there opponents, LB 138? Neutral? Senator Schrock. Gives up. Okay.

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LB 138, 303

SENATOR SCHROCK: I'm not going to close.

SENATOR RAIKES: Okay. That will close the hearing on LB 138 and we will move to LB 303 and Senator Schrock.

LB 303

SENATOR SCHROCK: (Exhibits 13, 14) Chairman Raikes, members of the Education Committee, for the record my name is Ed Schrock from the 38th Legislative District, spelled S-c-h-r-o-c-k. This bill was brought to me because of the situation in Red Cloud where they couldn't use the community scholarship program, and there's, I think, some unforeseen situations that have arisen since the bill was passed in 2003 I believe when the bill was passed under the Nebraska Community Scholarship Foundation Program Act. I'm still trying to digest this and how it works. But certainly Barb Sprague from Red Cloud was the one that brought it to my attention because she is on the Red Cloud Community Foundation Board and was kind of overseeing this program. But the bill seeks to resolve a problem originating in language of the Community Scholarship Foundation Act that limits a local foundation's flexibility for qualifying for matching state funds, a minimum of \$2,000 collected in order to qualify for a \$2,000 matching fund. Red Cloud's experience are a combination of time for collecting donations and timing of granting led to a residual of \$881 for a granting year, less than the minimum \$2,000, thus not qualifying for matching state money. The minimum language creates a situation where collected funds go unused for lack of a match and if tapped out, a community cannot qualify for matching state money. This bill creates a continuum of \$500 to \$2,000 which can qualify for state match on a dollar-for-dollar basis and become eligible for matching funds by raising a minimum of \$1,000. I do have a handout here and maybe this will help clarify a little bit. And I would go on to say that smaller communities have considerably fewer resources for donations and smaller pools from which to help find eligible grantees. This creates an unforeseen limitation for the use of the Community Scholarship Foundation Act which the bill seeks to remove. The bill, as written, with cooperation of committee counsel, the Coordinating Commission for Postsecondary Education, and

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a representative of the community scholarship foundation. There is question about an amendment here in response to comments by the State Auditor whether we need an amendment or not, by removing Section 9 of the bill which would allow the commission to carry over funds from one year to another for the purpose of the act. The intent can be accomplished without this language, although I think in the scope of the budget totals for the commission the amount for purposes of community scholarships is an insignificant amount. But the Red Cloud Community Foundation apparently found that they had some money left over with no eligible people for that year and could not use the grants and, therefore, lost some money which they could have used otherwise. And this would be...this would try to remedy that situation. And so that's why I bring you the bill. And I'm still kind of scratching my head and any questions you ask maybe we should save some of them for the committee counsel. But I think she's familiar with the situation, are you not? So...

SENATOR RAIKES: Okay. Thank you, Senator. Questions?
Senator Stuhr.

SENATOR STUHR: Okay. Is it my understanding that this letter that you submitted or, no, that we received I guess from the Coordinating Commission that your community foundation, if they were going to get \$2,000 they had to also come up with the funding of \$2,000?

SENATOR SCHROCK: Right. I don't think that was so much the problem as the fact for that particular year they had to grant the \$2,000. And for that particular year at that time they couldn't use quite all of it.

SENATOR STUHR: So then they couldn't use the remaining amount.

SENATOR SCHROCK: Right.

SENATOR STUHR: Okay. So, and your legislation is going to...

SENATOR SCHROCK: Well, it's going to help make that a little simpler or easier for them to do. And for the smaller schools, apparently, it's a little more difficult for them to use and come up with the right numbers and so on

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and so forth.

SENATOR RAIKES: Okay. You're going from \$500 to \$2,000 for the grant.

SENATOR SCHROCK: Um-hum.

SENATOR RAIKES: The amount raised by the community drops from, the minimum amount drops from \$2,000 to \$1,000. There is a March 1 application deadline. And then in addition it looks from the fiscal note as though currently any balance that is not expended goes back to the General Fund rather than to a future use in this program. So this would make any unexpended balances available for this program in future years.

SENATOR SCHROCK: Well, it would make it available for future years for the same program, yes.

SENATOR RAIKES: Right, okay. Okay. Any other questions? Thank you, Senator. Proponents, LB 303.

LARRY SCHERER: That chair looked way too comfortable.

SENATOR RAIKES: Ah, okay.

LARRY SCHERER: (Exhibit 15) Good afternoon, Senator Raikes and members of the Education Committee. For the record my name is Larry Scherer and I work for the Coordinating Commission for Postsecondary Education. And we heard about the issue with Red Cloud and I understood it was a problem. In talking to committee counsel, there were a number of technical changes that needed to be made in the legislation as well. So I'm going to hand out these. I think Senator Schrock did a good job of explaining the small foundation issue, and it really had to do with timing and ability to use the money and we support that flexibility. The other part of it is the original act was really drafted as a pilot program, but it's been funded as an ongoing program. So part of the purpose of this is to make the language an ongoing program. The...I'll let Ritchie Morrow here today, he's our financial aid officer, he's going to talk a little more about how the program works just briefly. The other parts of the bill that haven't been mentioned, there's a definition of postsecondary educational institution has to

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do with the requirements for licensure and approval. That is consistent with the other financial aid programs that the state has. There are preferences in the bill for limited funding and there are priorities. The question is what happens if you have a preference and a priority that aren't lined up? And this would say that the preferences for funding only apply as between applicants in the same category of priority. So it takes care of that potential problem. We haven't run into it yet because we haven't had the situation where the money ran out. There's a provision that the foundations agree to comply with commission rules and regulations. And in the reporting requirement, the statute says that the foundations had to report on all scholarships and grants. And the bill basically says it's only those that are related where there's a state match for the program. So that is the...also I think Senator Schrock may have mentioned this, but there is an amendment that would strike Section 9. The Governor's budget office indicates to us that that's not a good idea to do and so we would...and if you don't have the amendment, we have a...you have one there, good. That is something that needs to be done before the bill moves. Ritchie.

RITCHIE MORROW: I guess where Senator Schrock mentioned there were some concerns with many of the small community foundations.

SENATOR RAIKES: We probably should have you spell your name just for the transcriber.

RITCHIE MORROW: I apologize. Ritchie Morrow, R-i-t-c-h-i-e M-o-r-r-o-w. I'm the financial aid coordinator with the Coordinating Commission. Red Cloud was not the only foundation that was concerned with having to do the \$2,000. There were some other foundations that contacted me said, you know, this is all we raised is \$2,000 and now you're making us, you know, award all of it, you know. We'd like to keep some in reserve for instances that come up. And so I think this will give the foundations the flexibility on applying for what they feel that they can legitimately use in a year in the matching grant programs.

SENATOR RAIKES: Okay. Senator Byars.

SENATOR BYARS: Thank you, Senator Raikes. Thank you.

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Beatrice Public Schools, Beatrice has an educational foundation with substantial assets and substantial income. Can that foundation be used as the vehicle for these matching scholarships or do you have to have a separate community foundation? There is also a Beatrice Community Foundation that funds a lot of things other than education that could include education. Could you talk to me about that.

LARRY SCHERER: I think the requirements are that the foundation offer a need-based scholarship to low-income students and that they be a nonprofit tax-exempt organization. And what else is there?

RITCHIE MORROW: Basically, if I understand your question, you're talking about them being as an umbrella organization to other foundations that work underneath them.

SENATOR BYARS: Or to be the foundation, to be the foundation.

RITCHIE MORROW: Yes.

SENATOR BYARS: They could offer ten \$2,000 matching scholarships and ask you to match it.

RITCHIE MORROW: Yes. They can apply, the Beatrice Foundation can apply for matching grant, but it is limited to \$2,000 per foundation.

SENATOR BYARS: Okay, okay.

LARRY SCHERER: And they can do a number of other things other than scholarships.

SENATOR BYARS: Okay, thank you, appreciate that.

SENATOR RAIKES: Senator Stuhr.

SENATOR STUHR: Yes. Do you have any idea the amount of money that has been allocated for this program? Was last year the first year if it was passed in...

RITCHIE MORROW: Last year was the first year it was \$50,000 where the goal was to award 25 \$2,000 matching grants. We

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did not receive 25 applications. We were only able to award 18 matching grants. There were a number of reasons for that. I did talk to some community foundations and because of the time frame where we were able to get information out to the foundations, to the time when we needed the applications submitted they just didn't have the time to go out and raise those \$2,000. But I do know for a fact that some of those that were not able to participate last year have submitted applications for this year.

SENATOR STUHR: Okay. So, I'm sorry, did you say it's limited to \$50,000...

RITCHIE MORROW: \$50,000.

SENATOR STUHR: ...for state funding.

RITCHIE MORROW: Yes.

SENATOR STUHR: Okay, thank you.

SENATOR RAIKES: Any other questions? I see none, thank you. Are there other proponents, LB 303? Are there opponents? Neutral testimony? Senator Schrock.

SENATOR SCHROCK: If I get up there, you may ask me a question (inaudible).

SENATOR RAIKES: You've learned your lesson, good job. Okay. That will close the hearing on LB 303, and I'll turn the reins over.

SENATOR BYARS: We'll now open Senator Raikes on LB 460. Welcome.

LB 460

SENATOR RAIKES: Thank you, Senator Byars, members of the Education Committee. Ron Raikes, District 25, here to introduce LB 460. LB 460 would change the name and shift the focus of the Minority Scholarship Program. The new name would be the Student Diversity Scholarship Program and the focus would be on developing more racially, ethnically, and culturally diverse student bodies at public postsecondary

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educational institutions. Currently the focus is on increasing the participation of specific racial groups. Dick Davis founded an endowment fund with an initial investment of \$200,000 in memory of his brother, R. H. Rick Davis. In 1989, the Legislature added \$800,000 to the Davis Minority Scholarship Fund and the first Davis scholarships were distributed in 1990. In 2000, the Legislature expanded the effort with the passage of the Minority Scholarship Program Act in LB 1379 and the expansion of the program to state colleges and community colleges. An additional investment of \$800,000 was made for the students at the university and community colleges and \$200,000 for students of state colleges. Scholarships provided by the new funding are commonly called Chambers-Davis Scholarships. In 2003, the United States Supreme Court issued two decisions involving racial preferences in admissions policies at the University of Michigan. Generally, the decisions indicated that the use of race as an automatic enhancement of an applicant's admissions status was not acceptable, but that race could be a consideration in attempting to create a diverse student body. As the university considered the potential impact of these decisions on policies in Nebraska, there were some concerns about the Minority Scholarship Program. LB 460 does not change the existing endowments, but would direct any future appropriations toward the goal of diversity. That was a stunning set of comments. (Laughter)

SENATOR BYARS: It was. I was waiting for more. Thank you, Senator Raikes. Any questions of the committee of Senator Raikes on LB 460? Senator Schrock.

SENATOR SCHROCK: The goal of this and from the beginning still would be to get racial diversity in our...

SENATOR RAIKES: Well, I think it's fair to say the focus is on certainly racial diversity but also ethnic, cultural and so on. So I don't think that, well, let me put it...I think the intent language that is specified in the bill would be accurate in that there's an interest in diversity in a broader sense. Certainly racial diversity is an important part of that and this has the attendant advantage of making the act in Nebraska consistent with what the court has ruled on these matters.

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SENATOR SCHROCK: So a Caucasian who immigrated from Russia could be part of this mix because that would be diversity?

SENATOR RAIKES: I would believe that would be correct, but Dick Davis is here and hopefully we'll be able to hear from him.

SENATOR SCHROCK: All right. I mean I'm not...just asking a question.

SENATOR RAIKES: Sure.

SENATOR BYARS: Thank you, Senator Schrock. Senator Stuhr.

SENATOR STUHR: I mean supposedly you're amending the original bill because of the U.S. Supreme Court decision.

SENATOR RAIKES: Yes. That was certainly an important motivational force.

SENATOR STUHR: Okay, thank you.

SENATOR BYARS: Thank you, Senator Stuhr. Any other questions of Senator Raikes? Thank you, Senator Raikes. Any proponents for LB 460? Welcome.

RICHARD WOOD: (Exhibit 16) Thank you, Senator Byars. Senator Byars, members of the Education Committee, my name is Richard Wood. I am the vice president and general counsel for the University of Nebraska. The university supports enactment of LB 460 which would rename and amend the Minority Scholarship Program Act to bring the Postsecondary Education Scholarship Program provided by the act into conformance with the June 2003 decisions of the United States Supreme Court in the case is called Grutter v. Bollinger and Gratz v. Bollinger. These cases involved admissions policies at the University of Michigan designed to achieve more ethnic and racial diversity in the student body where race or ethnicity of applicants for admission was taken into consideration. And even though these were admissions cases, the legal principles set out by the Supreme Court in its Opinions in these cases apply with equal force to university scholarship programs and policies. Basically the Supreme Court held that under the equal protection clause of the Fourteenth Amendment to the U.S.

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Constitution admissions programs could not be based solely upon race or ethnicity, but that race and ethnicity could be taken into consideration as a plus factor in making admissions decisions under narrowly tailored programs designed to support a university's compelling interest in attaining a diverse student body. In the decision-making process, the court said it is important that decisions be based upon a highly individualized holistic review of each applicant's file, giving serious consideration to all the ways an applicant might contribute to a diverse educational environment. The court emphasized that when race or ethnicity is used as a plus factor in the decision-making process, a university must ensure that each applicant is evaluated as an individual and not in a way that makes the applicant's race or ethnicity the defining feature of his or her application. Section 2 of LB 460 would remove current language in the Minority Scholarship Program Act that requires scholarships to be awarded solely on the basis of certain racial or ethnic classifications and replace that language with a finding that the state has a compelling interest in attaining greater diversity in the racial, ethnic, and cultural makeup of the student bodies of the state's public postsecondary educational institution because of the benefits a diverse educational environment will produce for all students at these institutions. Section 6 of LB 460 goes on to further amend the act to require and enable the scholarship selection committee created under the act to develop scholarship award criteria consistent with the legal requirements established by the Supreme Court in the Michigan cases for the proper consideration of race and ethnicity in making scholarship award decisions. The university respectfully requests that you advance this bill to the floor, and hopefully it can be passed. It will enable all of the public postsecondary educational institutions in Nebraska to carry on this very valuable program that was established initially with the Davis scholarships that carry this program on in a way where we will be acting consistent with these recent decisions of the Supreme Court. I'd be happy to answer any questions the committee may have.

SENATOR BYARS: Thank you, Mr. Wood. Any questions of Mr. Wood? Seeing none, thank you for being here.

RICHARD WOOD: Thank you.

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SENATOR BYARS: Next testifier in favor of LB 460. Welcome.

DICK DAVIS: Welcome and thank you. I'm going to be very brief. Dick Wood has been outstanding over the years in making sure that we are in compliance as we go forward with these scholarships. I do want to...

SENATOR BYARS: We know who you are, but you might identify for the record.

DICK DAVIS: Oh, yes, Dick Davis from Omaha, Nebraska. As I said, Dick Wood has been just wonderful over the years. But I also wanted to say to you is the fact that how important it is to continue to move this forward. Now when we first did this program or the scholarships, it was a one to five ratio the state put up four-fifths of the money and the private was only one-fifth. Right now we have almost \$1 million of private dollars funding this program and just a little over \$2 million state dollars. And so what happens is, is that all of their research and all of the performance has been tremendously outstanding for this particular program. And I see no reason that this program would change it at all in terms of serving poor folks and disadvantaged folks in this community. I guess the biggest factor here is that, as you know, we're talking specifically minorities now. But from a practical standpoint when the retention is sometimes as much as 50 percent of the graduation rate of the population as a whole and these kids have performed sometimes as much as 50 percent over the population as a whole, you know you're gathering and keeping the best and brightest in Nebraska. And I think that's something that you folks on this committee started and supported strongly, and it's been doing really quite well over the years. So we want to thank you for your support and hopefully this can move forward.

SENATOR BYARS: Thank you, Mr. Davis. Any questions of the committee? If not, thank you very much...

SENATOR SCHROCK: (inaudible).

SENATOR BYARS: Senator Schrock.

SENATOR SCHROCK: How many students are participating in

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this now or are we helping with scholarships on this now?

DICK DAVIS: Oh, probably around 75 to 100. It's been a wonderful situation in the fact that you have your endowment of about \$3.2 million, \$3.3 million. But the university has put dollars in to make sure that we can get a full complementary scholarship which means that a kid who is really really strong most a full ride. We have the community colleges starting this year with their program. So there are as many as ten kids from the University of Nebraska being selected on an every-year basis as Kearney this year did four. The University Medical Center did two. So, you know, when you start doing that with about...every four years, it becomes pretty substantial.

SENATOR SCHROCK: And are the community colleges involved in this too?

DICK DAVIS: We just got through this February we started selecting our first community college recipients.

SENATOR SCHROCK: And UNO.

DICK DAVIS: They will first go to the community colleges because it's a two plus two program. We put \$400,000 aside of community college and then after they go those two years and then they will be competing to go for the other two years at the other universities or state colleges.

SENATOR SCHROCK: And you want to talk about the diversity of the students that are receiving these scholarships?

DICK DAVIS: Right now it's specifically regarding underrepresented populations, that basically means African Americans, Hispanics, and Native Americans. Those are the underrepresented folks that when you look in our campuses that does not have the same population as a whole. What this does, it provides a broader situation. So the answer to your question, the fact that there could be a white person, it could be Asian folks, there could be all kinds of things--things, students in this process.

SENATOR SCHROCK: Okay, thank you.

SENATOR BYARS: Thank you, Senator Schrock. Any other

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comments or questions from the committee? If not, thank you, Mr. Davis.

DICK DAVIS: All right.

SENATOR BYARS: Any other proponents of LB 460? No other proponents. Anyone testifying in opposition to LB 460? Anyone to testify neutral? Do you care to close, Senator. Senator Raikes waives closing. We'll now go to LB 449. Senator Bourne. Senator Bourne represented by staff. Good to have some quality from the senator's office.

LB 449

LISA JOHNS: Good afternoon, members of the Education Committee. My name is Lisa Johns, J-o-h-n-s. I'm here to introduce LB 449 for Senator Pat Bourne who represents the 8th Legislative District in Omaha. He does send his apologies. He had a scheduling conflict and was not able to make it this afternoon. The purpose behind LB 449 is to streamline and simplify the administration of the Nebraska Scholarship Program. Currently, the Coordinating Commission for Postsecondary Education must review and approve all recommendations for awards granted under this program. Unfortunately, this has sometimes led to delays in getting these needed funds to students. Under LB 449, this step would be eliminated and financial aid officers would act as agents of the commission in distributing the money to the students. The eligibility of a student to receive an award under the act would still be subject to an audit by the commission. And if a student is later found to be ineligible, the institution would be responsible for repayment of that money. The legal counsel, Tammy, did talk to me earlier about some possible legal issues with this bill. And I believe Mr. Tip O'Neill will be following me and will address those concerns in his testimony.

SENATOR BYARS: Thank you, Ms. Johns. Any questions of the committee? Thank you very much. Are you going to stay to close?

LISA JOHNS: I'll waive closing but I'll stay.

SENATOR BYARS: Okay, thank you. Proponents of LB 449.

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LB 449

Welcome to the Education Committee.

DOUG WATSON: (Exhibit 17) My name is Doug Watson, W-a-t-s-o-n, and I'm the associate vice president for financial aid and enrollment management at Midland Lutheran College in Fremont. And I appreciate the opportunity to speak in support of LB 449. As what was outlined just a few minutes ago, it does...under the current regulations and statutes does have some level of redundancy and by...with this new bill, LB 449, it would eliminate the redundancy and improve the efficiency in the program administration, particularly at the financial aid administrator's office level at the colleges and also with the coordinating commission. At the same time, it would still maintain the integrity and accountability that is our expectation for these programs and also improve the understanding and awareness of the state's commitment to higher educational opportunities in the state. As what was shared earlier, under current process, current practice we submit our list for approval or disapproval and then the funding is provided and we disburse those funds to students. We would maintain that preapproval is unnecessary due to the existing eligibility requirements whereby we are supposed to be looking at students that qualify for the federal Pell Grant Program which are generally determined to be the neediest students that are attending our institutions regardless of institutional sector. And also that they are residents of the state of Nebraska. It also does reduce the flexibility for colleges to award and disburse funds in a timely way. And it can result in some delays in getting those funds to our students. And the other thing is that when we're looking at, particularly at the awarding process, we were advised that the funding could not clearly be reflected as state funds until that approval process had been actually taken place. And with all due respect to my friends at the coordinating commission, I understand that. At the same time, it does reduce our opportunity to really demonstrate and clearly state to the students that these funds are coming from the state of Nebraska. It does create a level of redundancy there. Eliminating the preapproval process will allow the colleges to more clearly demonstrate that to the families and the students that the state of Nebraska really has made some substantial commitments to student financial aid. And a change in these statutes would allow the colleges to simply award the eligible students to repay

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back the program if an audit would show a student to be ineligible for some reason. And that would be consistent with our current processes and procedures as they relate to federal aid programs. As aid administrators at our postsecondary institutions, we are required to demonstrate a certain level of administrative capability in administering the federal aid programs, and it would seem that those standards could also apply to the state programs as well. In conclusion, the passage of LB 449 would be beneficial to students, colleges, and the coordinating commission in making the delivery system more efficient and cost-effective by reducing the administrative burden of the current statute as it currently stands. At the same time, the audit provisions will still provide the proper degree of oversight and accountability that the Legislature, the taxpayers, the colleges, and, most importantly, the students deserve and expect. Thank you for providing me with the opportunity to speak in support of this bill, and I would be happy to entertain any questions.

SENATOR BYARS: Thank you, Mr. Watson. Any questions of the committee? Seeing none, thank you for being here. Next proponent for LB 449. Welcome.

STEVE MILLNITZ: (Exhibit 18) Hello. I'd like to thank the committee members for the opportunity to address you this afternoon on LB 449. My name is Steve Millnitz and that's a mouthful, it's spelled M-i-l-l-n-i-t-z. I'm financial aid director at Central Community College, and I'm testifying in favor of LB 449. I'm testifying on behalf of my institution and my financial aid counterparts at the other community colleges. The passage of LB 449 would be a definite improvement over the status quo for many of the reasons Doug has already put forth. It eliminates the requirement that colleges must get approval from the Coordinating Commission for Postsecondary Education before offering a Nebraska state grant to an eligible student. Up until two years ago, postsecondary institutions were given state grant allocations and allowed to award funds to students according to existing statutes and regulations. No prior permission from the commission was required. Reporting requirements and periodic institutional reviews were deemed sufficient to maintain program integrity. I guess if I could emphasize anything it would be that, that the requirements and the institutional reviews were deemed sufficient to maintain

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program integrity at that time. Then two years ago when the state passed legislation eliminating the multiple state grant programs and replacing them with one state grant program, the Nebraska State Grant, the prior approval provision was also adopted. Requesting prior approval has been burdensome to postsecondary institutions. Time spent submitting names to the commission and monitoring fund balances to ensure compliance and the other tasks that go along with this are time consuming and time that we don't have available to serve students in other ways. In addition, students are sometimes not given timely notice of their Nebraska State Grant and other financial aid awards due to the logistics of administering the prior approval requirement. And finally, there appears really to be no benefit to having the provision to have the commission issue prior approval. There are sufficient controls without this provision to assure program integrity. And so once again, I ask your support of LB 449. Thanks for considering my testimony. I'd take any questions if you have them.

SENATOR BYARS: Thank you, Mr. Millnitz. Any questions of the committee? If not, thank you for being here today.

STEVE MILLNITZ: Thank you.

SENATOR BYARS: Next proponent for LB 449. Welcome, Senator.

RON WITHEM: Senator Byars, members of the Education Committee, Ron Withem, W-i-t-h-e-m, representing University of Nebraska. And I just wanted to add my voice and the university's voice in support of this bill. Our financial aid people have reviewed it and feel like it would make the process simpler so we are supporting.

SENATOR BYARS: Any questions of Senator Withem? Seeing none, thank you for being here. Next proponent. Welcome.

TIP O'NEILL: Senator Byars, members of the committee, I'm Tip O'Neill. I represent the private colleges and universities here in Nebraska. We did ask Senator Bourne to introduce the bill on behalf of the financial aid officers. I know that there are...anytime you're talking about public dollars going to students at independent institutions or private for-profit institutions, you're going to have an

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issue of the constitutional provision that we have in the state. It is my opinion that the designation of agents by the commission of the financial aid officers meets the test of Lenstrom v. Thone and the State ex rel. Creighton v. Smith. But if you would like us to, I'm sure Senator Bourne would be happy, I have not talked to him. I've talked with Lisa about this. If you would like us to request an Attorney General's Opinion on the constitutionality of this process, we would certainly be willing to do so. I'd be happy to answer any questions you might have.

SENATOR BYARS: Thank you, Mr. O'Neill. Any questions? Your comments are duly noted. Thank you.

TIP O'NEILL: Thank you.

SENATOR BYARS: Any other proponents of LB 449? Anyone testifying in opposition to LB 449? Anyone testifying neutral? Have one neutral testifier. Welcome.

MARSHALL HILL: Good afternoon, Mr. Chairman and committee members. My name is Marshall Hill. I'm in my third week now as executive director of the Coordinating Commission for Postsecondary Education. We are truly testifying in a neutral position on this bill. We have no particular objection as we already do audit the distribution of funds by the institutions, and we certainly have no concerns at all about what has been referred to as program integrity. We trust that the institutions are doing the appropriate things in the distribution of funds. Our only concern is one that Mr. O'Neill mentioned just recently as we believe the bill could perhaps be found unconstitutional because the constitution prohibits the appropriation of public funds directly to any postsecondary institution not owned or controlled by the state. The language in the current statute, to my understanding, was changed three years ago, not because of any concerns about program integrity, but because of that constitutional issue regarding the methodology of fund distribution. So our only caution is that before you move forward with this bill we would suggest that you resolve this issue of constitutionality, either through requesting an Attorney General's Opinion or through research of your own. I've already met with Tip O'Neill to discuss this issue and we are talking with one another and we are coordinating on this issue and would be glad to talk

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with any of the other sectors as well. If this bill does not pass for any reason, I will commit to you and to all the sectors here that as an alternative we will willingly meet with representatives of the various sectors of higher ed, talk with them about ways we could streamline our processes. We have no desire to add any bureaucratic work that's not needed or necessary. I can tell you that even in the only three weeks I've been here that we have plenty to do at the coordinating commission. And if there is something we could stop doing, we'd certainly be willing to do that. Thank you and I'd be pleased to respond to any questions that you might have.

SENATOR BYARS: Thank you, Mr. Hill. We extend congratulations to you on extending your tenure into the third week. That's very admirable.

MARSHALL HILL: Thank you.

SENATOR BYARS: Any questions of members of the committee? If not, thank you very much. Any other testifiers neutral? If not, Ms. Johns waived closing. We will now go to opening, Senator Combs. Welcome to the Education Committee. We will now hear opening on LB 624.

LB 624

SENATOR COMBS: Good afternoon, Vice Chair Byars and members of the committee. I'm Jeanne Combs, J-e-a-n-n-e C-o-m-b-s, and I represent the 32nd District. Today I bring you LB 624 which proposes a matching dollar requirement for institutions participating in the Nebraska Scholarship Program. Both the public sector colleges and the private nonprofit sector schools provide significant amounts of money as tuition discounts to their students. A matching requirement would ensure that those grants would continue and would ensure that for-profit institutions that wanted to continue to benefit from the scholarship program would provide some money from their own coffers for student aid as well. With that, I will close and allow other people to testify. Thank you.

SENATOR BYARS: Thank you, Senator Combs.

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SENATOR COMBS: I may waive closing. I'll let you know.

SENATOR BYARS: Are you going to stay for closing?

SENATOR COMBS: Perhaps, I'm not sure.

SENATOR BYARS: Thank you. Any questions of the committee of Senator Combs? Thank you for being here. Proponents for LB 624. Mr. O'Neill.

TIP O'NEILL: (Exhibit 19) Thank you, Senator Byars, members of the committee. My name is Tip O'Neill, that's O-'-N-e-i-l-l. I'm here as a proponent of LB 624. I brought this issue to Senator Combs at the beginning of the session primarily because it is our belief that institutions that participate in student financial aid programs ought to also be willing to put up some of their own money to assist students. We do it. The public certainly do it. Some of the proprietaries do, not all, based on the information I have on the U.S. Department of Education web site. And so that's why we just think LB 624 is good public policy. I do want to share with you what has happened to state grant allocations by sector since the passage of LB 547 two years ago. As you can see, even though we have about 1.8 million additional dollars in the program, students who attend private nonprofit institutions have actually experienced a decrease of more than \$1 million in the two years. What that really does to us is it impacts our ability to recruit students from families with...from poorer families basically. It doesn't really impact our bottom line because it is so much more expensive for us to recruit a student who is a Pell Grant student, for example, than it is a student who comes from middle income or above family means. And so what it has meant is we just have been able to recruit fewer of those students. And, you know, we think that we have been successful in educating students. We are proud of our record and that we would hope that in the future, you know, you would think about making some changes in the program that would ameliorate some of the negative impacts that have happened to us. I'd be happy to answer any questions you might have.

SENATOR BYARS: Thank you, Mr. O'Neill. Any questions of Mr. O'Neill? If not, thank you for being here.

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TIP O'NEILL: Thank you.

SENATOR BYARS: Any other testifiers in favor of LB 624?
Anyone testifying in opposition? Welcome.

TODD CLARK: Welcome. Good afternoon, Senator Byars, committee. My name is Todd Clark. I'm the current president of the Nebraska Council of Private Postsecondary Career Schools, a nonprofit corporation and a member of the Nebraska Private Postsecondary Career School Advisory Council. I'm here in opposition to LB 624 for really two main reasons. Number one, LB 624 does provide perhaps an unnecessary structure and process since the bill does not necessarily provide for additional funding to eligible students. And as a whole, institution, in fact as we just heard, funding has gone up in recent years. The schools that I represent, the administration of the program, the Nebraska Scholarship Act Program, over the last two years has been very straightforward, and the administration by the coordinating commission has served that purpose. Number two concerns of this bill is the questions that it raises. Numerous questions could not be answered based on language in LB 624. Dare I say it's too nebulous in four areas. Number one, the interpretation and application of funded and unfunded discounts. That language does not necessarily apply to all institutions eligible under the Nebraska Scholarship Act. Number two, a consistent definition of institutional aid would need to be applied. Number three, this is a little bit, bear with me as I try to express this, is the institutional aid calculated on funded and unfunded discount totals for all students at any particular school or on only the students eligible for the Nebraska Scholarship Act grant program? It's a question that would need to be answered. Number four, the analysis from the coordinating commission is too preliminary to determine the overall impact both negatively or positively to students and institutions in the state. In conclusion, language used in the bill is not consistent for all institutions utilizing Nebraska scholarship grant program.

SENATOR BYARS: Thank you, Mr. Clark. Any questions of the committee? If not, thank you for being here.

TODD CLARK: Thank you.

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SENATOR BYARS: Any other testifiers in opposition to LB 624? Anyone to testify neutral?

MARSHALL HILL: Good afternoon again. Marshall Hill, executive director of the coordinating commission. The private postsecondary institutions certainly play a very important and valuable role in Nebraska's higher education system. I came here from Texas where I had a very good working relationship with private institutions there, and I look forward to building a strong relationship in similar fashion here in Nebraska. I already met with Tip O'Neill to get that started and look forward to visiting many of the campuses that he represents. So on behalf of the commission, we applaud the private colleges and universities' concern about distributing funds to students who need financial aid support. We have a few concerns about this particular bill in the way in which it is written that we want to bring to your attention. Once again, not opposed to it but believe these are issues which should be resolved. First, the commission supports the concept of matching grants, but at this point only if those matches increase the financial aid targeted to the most needy students. The bill as written would not do that. The most needy students are indeed in need and as now set forth, the bill, the discounts that the institutions would offer to any students, including low, middle, or high income students or graduate students for that matter, would count toward the institution's part of the match. Second, we believe that this approach could encourage a less transparent pricing structure. Higher education pricing structures are complex enough, and I think we would all agree we wouldn't want to do anything to exacerbate that problem. In Texas we learned that Hispanic students and their families, for example, were very responsive to sticker price, sticker shock. High tuition levels had the effect of convincing them that they couldn't afford to attend higher education even before they found out how much financial aid might be available to them. And, therefore, they didn't pursue the process at all just because of the fear of seeing the sticker. As I mentioned before, we would want to avoid exacerbating an issue that's already somewhat of a problem. Finally, it would be our responsibility to audit the institutions' distribution of funds. And our staff estimates that this would take about a half-time staff person to do that. At this point, we don't have that half-time staff person. So in conclusion, I'd

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just like to say once again the commission does strongly support the concept of matching funds. We believe that any such proposal should contain language which would target those funds to the students who need it the most. I'd be happy to respond to any questions that you might have.

SENATOR BYARS: Thank you, Mr. Hill. Any questions from the committee? If not, thank you for your testimony. Any other testifiers in a neutral position? If not, Senator Combs is not here to close.

FROM AUDIENCE: She waived.

SENATOR BYARS: She waived closing. This will close the hearing on LB 624 and close the hearings for the day. Thank you all for attending.